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**Final Report
of the**

**Committee to Study Reimbursement Rates
for Maine's Bottle Redemption
Businesses and Other Issues
Related to the Handling and
Collection of Returnable Containers**

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TABLE OF CONTENTS

| | |
|---|---------|
| 1. Executive summary..... | page 1 |
| 2. Background..... | page 3 |
| 3. Overview of process and abbreviated meeting notes..... | page 7 |
| 4. Review of assigned tasks, outcomes, and conclusions..... | page 21 |
| 5. Proposed legislation | page 25 |

APPENDICES

- A. Legislative Study Committee Membership
- B. Public Law 661, Second Session of the 120th Legislature
- C. Overview of the New Brunswick, Canada, beverage container deposit and redemption program
- D. Background of Proposed Changes to the Department of Agriculture in Oversight and Enforcement Activities Related to the Bottle Bill, and a View of what is Foreseen
- E. Application form for licensing a Redemption Center
- F. Draft rules relating to Responsibilities of Manufacturers under the Bottle Bill, as presented to the Study Committee

SECTION 1 - EXECUTIVE SUMMARY

The Study Committee was directed to look at ways to improve the efficiency of Maine's Bottle Bill, particularly with respect to the management of redeemed containers at redemption centers. In addition to examining and discussing possible improvements to the management of redeemed containers, the Committee also had the opportunity to assist the Department of Agriculture, Food and Rural Resources with the development of rules that would lead to improved tracking of redeemed beverage containers and a sustained funding formula for the Department to permit a higher level of oversight and enforcement with respect to the 'bottle bill' program.

Throughout the meetings, a common theme emerged from all in attendance: the value and necessity for the Department of Agriculture, Food and Rural Resources, to have an accurate and complete database of all beverage containers sold in Maine to which a deposit fee applies. Without such a database, that would provide not just the Department, but also retailers and redemption centers, with appropriate information on each container that would permit proper management of deposits, returns and services. While the Department has begun work on such a database, the overwhelming and repeated support for such an electronic document served to reinforce the need for this product.

During the discussion that followed on the tasks assigned to the Study Committee, a number of other concerns, as well as revelations, were shared, to the benefit of all. Although members of the Study Committee were involved and active in the committee process, and a number of sub-committees were established to further investigate options and opportunities, a solution to the issues relating to improving the efficiency of Maine's Bottle Bill was elusive. One of the recurring points was the necessity of proper accounting for all containers to which a deposit had been charged to, and the resulting flow of money, for both the deposit as well as for the handling fee. A brief overview of this follows:

Beverage containers covered by the Bottle Bill have a redemption value of five cents each, except wine and spirits have a value of fifteen cents each (the deposit paid by the buyer at point of purchase). In addition to the deposit value, the redemption activity (provided by retailer or redemption center) has a value of three cents per container, paid by the distributor to reimburse the retailer or redemption center for accepting the empty container. With an estimated 700,000,000 to 750,000,000 containers (that have a deposit value) sold annually in Maine, the tracking and accounting of these containers is of significant importance to initiators of deposit, distributors, retailers and redemption centers.

The Study Committee had discussions on modifying statute and rule to permit the use of 'Reverse Vending Machines', which are a technological mechanical opportunity for redemption of empty beverage containers. The issue of 'hand held scanners' was debated as well. A concern of the industry with these electronic devices was the 'destruction' of the scanned container, so that it may only be redeemed once. Of additional concern was the quality of the crushed and cancelled beverage container - - in movement from the machine to the recycler, with proper accounting provided the distributor, and also the recycler's role in marketing the containers which may have a different level of contamination that would be had if the containers were hand sorted.

SECTION 2 - BACKGROUND

This committee was originally established during the First Regular Session of the 120th Maine Legislature and met during the summer and late fall of 2001 to discuss and debate the topics assigned to them and to provide recommendations and suggested legislation to the Joint Standing Legislative Business and Economic Development Committee. A report detailing the work of this committee was prepared and provided to the Business and Economic Development Committee in December of 2001.

The Business and Economic Development Committee considered the report, its accompanying proposed legislation, and after much debate during work sessions, with participation from interested parties and the public, a number of the recommendations were voted 'ought to pass' by the Committee. However, the Committee believed that additional study was needed on a number of issues related to the bottle redemption program in Maine and sought approval to have the study committee that worked during 2001 continue their efforts.

The legislation that resulted from the bill recommended out by the Business and Economic Development Committee may be found in Appendix B. The portion of the legislation that relates directly to the re-established committee, however, follows:

PUBLIC LAWS OF MAINE Second Regular Session of the 120th

CHAPTER 661 H.P. 1685 - L.D. 2184

An Act to Implement the Recommendations of the Returnable Container Handling and Collection Study

Be it enacted by the People of the State of Maine as follows:

Sec. 13. Committee reestablished. The Committee to Study Reimbursement Rates for Maine's Bottle Redemption Businesses and Other Issues Related to the Handling and Collection of Returnable Containers, established by Joint Order 2001, House Paper 1389 in the First Regular Session of the 120th Legislature and referred to in this section as the "committee," is reestablished as follows.

1. All members who were members of the committee appointed by the President of the Senate and the Speaker of the House after the First Regular Session of the 120th Legislature may continue to serve on the committee. Members who choose not to continue serving as members may be replaced by the respective appointing authority, except that 2 of the legislative members must be members of the Joint Standing Committee on Business and Economic Development. In addition to the original 13 members, the committee is composed of the following members:

- A. One member representing beverage manufacturers who is not a distributor, appointed by the Speaker of the House; and
- B. The Commissioner of Agriculture, Food and Rural Resources, or the commissioner's designee.

All additional appointments must be made no later than 30 days following the effective date of this Act. The appointing authorities shall notify the Executive Director of the Legislative Council upon making their appointments. The Senator named to the committee serves as Senate chair and the first named House member serves as House chair. The committee shall meet at the call of the co chairs. The committee may meet not more than 4 times to conclude its work.

2. The committee shall study issues related to the operation of bottle redemption businesses and to the handling and collection of returnable containers. In examining these issues, the committee shall:

- A. Develop a process for identifying ways to improve the efficiency of the returnable container deposit law;
- B. Examine potential improvements including redesigning the operation of the system;
- C. Study the viability of establishing cooperative container pick-up arrangements between redemption centers, distributors and collection agents;
- D. Further study possible technological improvements that will enhance the efficiency of the returnable container deposit law; and
- E. Further examine the impact on rates of return of a proposal included in the report of the Committee to Study Reimbursement Rates for Maine's Bottle Redemption Businesses and Other Issues Related to the Handling and Collection of Returnable Containers that would decrease from 15¢ to 5¢ the refund value of wine and spirit containers of greater than 50 milliliters that are sold in the State.

3. The State Planning Office shall absorb costs to provide staffing for the committee and other costs of the study, except legislative per diem and legislative expenses.

4. Committee members who are Legislators are entitled to receive the legislative per diem, as defined in the Maine Revised Statutes, Title 3, section 2, and reimbursement for travel and other necessary expenses for their attendance at authorized meetings of the committee. Public members not otherwise compensated by their employers or other entities that they represent are entitled to receive reimbursement of necessary expenses for their attendance at authorized meetings of the committee.

5. The co chairs of the committee, with assistance from the committee staff, shall administer that portion of the committee's budget related to legislative per diem and legislative expenses. Within 10 days after its first meeting, the committee shall present a work plan and proposed budget to the Legislative Council for its approval. The committee may not incur expenses that would result in the committee's exceeding its approved budget.

1. The committee shall submit a report that includes its findings and recommendations including suggested legislation to the joint standing committee of the Legislature having jurisdiction over business and economic development matters and the Legislative Council by November 6, 2002. Following receipt and review of the report, the joint standing committee of

the Legislature having jurisdiction over business and economic development matters may report out a bill to the First Regular Session of the 121st Legislature to implement the committee's recommendations. If the committee requires a limited extension of time to conclude its study and to make its report, it may apply to the Legislative Council, which may grant the extension.

SECTION 3 - OVERVIEW OF PROCESS AND ABBREVIATED MEETING NOTES

The enacted legislation allowed the re-established study committee to meet not more than four times. Senator Edward Youngblood (Brewer) served as chair of the committee. Senator Youngblood met with George MacDonald, Manager of the Waste Reduction & Recycling Program at the State Planning Office, who was to provide staff support to the work of this study committee. A discussion of expected outcomes and process was had and a framework for the effort established.

The State Planning Office contacted the original study committee members to solicit their willingness on continuing to be part of the re-established committee, as well as contacting the two additional members identified to be part of the effort. All original members agreed to be part of this renewed study committee. In addition to the members of the committee named in the legislation, the State Planning Office notified persons who had attended the committee meetings held in 2001, to make them aware of this re-established committee and invited them to continue with their participation.

A format for the meetings, as well as the first meeting agenda, was discussed with Senator Youngblood and Representative Harold Clough and the first meeting was set for August 28, 2002 and was held. The second meeting was held on September 25 and the third held on October 23. Between the second and third meetings, Senator Youngblood and Representative Clough become concerned that with the work that was being done by the committee, and its several subcommittees, could not adequately be addressed within the timeframe set by statute. With this concern, permission was sought from the Legislative Council for an extension until early December, in order to allow for more research and debate to be had on the issues. Approval for the extension was received and the committee held its fourth and final meeting on November 26th, 2002.

Because of the effort undertaken by committee members during 2001, and the discussions before the Business and Economic Development Committee in 2001 and again in 2002, the members were very familiar with the concerns, issues and needs that were to be addressed by this renewed study committee and were also familiar with each other.

The first meeting, held on August 28th, focused on the five areas of concern that the re-established committee was to consider for further study, as well as issues that may not have been fully resolved by the enacted legislation. One of the primary issues discussed related to the rules that the Department of Agriculture was directed to draft, through the recently enacted legislation, and focused on the establishment of a process that would enable improved management of beverage containers covered by the state's 'bottle bill'. Hal Prince, the Department's representative to the study committee, presented the draft proposed rule and changes to the committee, and asked for comments and assistance in clarifying certain aspects of the draft rules. Following the discussion on these proposed rule changes, the committee redirected its attention to the five areas of concern they were directed to review:

Those five areas of concern the committee was directed to review were:

- a. A process for identifying ways to improve the efficiency of the returnable container deposit law;
- b. Examine potential improvements including redesigning the operation of the system;
- c. Study the viability of establishing cooperative container pick-up arrangements between redemption centers, distributors and collection agents;
- d. Further study possible technological improvements that will enhance the efficiency of the returnable container deposit law; and
- e. Further examine the impact on rates of return of a proposal included in the report of the Committee to Study Reimbursement Rates for Maine's Bottle Redemption Businesses and Other Issues Related to the Handling and Collection of Returnable Containers that would decrease from 15¢ to 5¢ the refund value of wine and spirit containers of greater than 50 milliliters that are sold in the State.

Following considerable discussion and debate, the consensus of the study committee members, on selecting the process that the group would follow in approaching a review of all the issues, was that work outside the full committee meetings would be necessary in order to complete as much research and exploration of options as was possible, given the relatively short time frame for this committee's work. With that agreement, discussion was had on the best way to approach the broad nature of the assigned tasks, the Department of Agriculture's draft rules, and other outstanding concerns that might relate to the bottle bill program.

It was agreed that the first three legislatively assigned topic areas were related and could be blended together and considered by a subcommittee, with another subcommittee to consider the fourth topic area. The remaining topic area, dealing with reducing the redemption value of spirit and wine containers from fifteen cents to five cents, consensus was to place first priority of this committee on addressing the other four topic areas, then consider the redemption value debate.

Other issues relating to the bottle bill program were raised by members as also benefiting from study:

- What the status of the initiatives passed during the last Legislative session? Specifically, with beverage container label registration, license fees, enforcement, licensing of redemption centers.
- Increase in handling fees for redemption centers is still here as a concern. Need to improve efficiency, reduce sorts, at redemption centers, to address this concern.
- Important to make better use of technology, to improve efficiency
- Need clarification of "initiators of deposit", multiple "initiators of deposit", and what constitutes a redemption center
- Need to educate "new entries" into market.

- Over redemptions of concern
- Many, if not most, of the problems being debated are the result of the "expanded bottle bill" containers, especially since those products are typically not marketed through "exclusive dealerships", as with the original bottle bill targeted beverage containers. The systems are working well with those 'original designated' beverage containers but not as well with the 'newer' products.
- Can the New Brunswick, Canada, bottle bill program serve as a template for possible changes to Maine's program?
- Collection of containers from unlicensed redemption centers is another concern.
- Should any proposed actions address only the "pressure points" of the current program (recognizing that benefits, timelines, costs for changes are proposed)
- A critical piece of this redemption is a complete and accurate accounting of containers managed through the deposit program.... Estimated number of containers involved ranges from 660,000,000 to 800,000,000.
- What would be the value of a "state wide bank" system, where distributors are no longer directly responsible for reimbursement of applicable fees or even the empty containers?
- Reverse vending machines, for redemption of empty beverage containers, are used by and at many retailers and redemption centers, but the machine itself is not identified within statute or rule, which was seen as a major obstacle to the adoption of this mechanical redemption system. There was agreement that both statute and rule should be modified to reflect the addition of this technology to the area of beverage container redemption options.

Senator Youngblood asked for volunteers to a subcommittee to review the first three legislatively assigned tasks and report back at the next meeting. The following members responded: Peter Welch, Leo Madden, Dan Fortin, Scott Solman, Oakley Jones, and Larry Pullen. Peter will initiate the meetings.

To address task number 4, the following members volunteered to serve on a subcommittee: Ted Brown, Larry Pullen, Ann Robinson and Hal Prince. Hal will initiate the meetings.

For task number 5, there was a great deal of discussion on addressing this issue but the Committee was in agreement that they couldn't look at changing redemption values at this time. It was brought up, however, that the handling fee of 3 cents was not appropriate for a 15 cent redemption value container - - that the handling fee for 15 cent containers should be six cents.

Much discussion was had on New Brunswick, Canada's, bottle redemption program and the possible value that might have in steering the work of the first subcommittee. It was agreed to that contact would be made with a representative in New Brunswick and discuss a possible tour of facilities there or perhaps someone would be able to make a presentation before this Committee. Dan offered to follow through with that contact and keep George MacDonald informed of possibilities.

During the comments from interested parties, it was noted that the Beverage Distributors are expected to pick up empty containers at their expense and this lowers the Distributor's Gross Margin. Picking up containers costs money. There should be a separate pick up fee built into the deposit to cover the cost of pick up. If there were a pick up fee, the beverage distributors would sub-contract third party pick up to gain efficiency.

The second meeting, held on September 25th, began with Hal Prince commenting on the draft proposed 'Bottle Bill' rules that he had shown at the last meeting. He replied that there has been no major change to the rules but is considering adding reverse vending machines (RVM) as redemption centers. Redemption centers are supposed to have agreements with dealers but how that would be handled with RVM is of concern. There was also debate over the definition of redemption centers. Another concern is the concept of "statewide redemption".

Oakley Jones commented, and others agreed, that under current statutes, RVMs are not allowed since the law states that containers are to be returned "clean and unbroken". Of concern to distributors and Initiators of Deposit is the accounting of empties, and that empties be counted only once.

Hal said he would check with the Attorney General's Office on Oakley's statement. The issue on how a dealer would handle licensed/unlicensed redemption centers is described in MRSA Title 32 Section 1867. Redemption centers are still often not entering in agreements with dealers. If redemption centers accept all containers, it would set up "statewide redemption", something that there is pressure in doing.

Rep Clough offered that having one person pick-up all containers from all redemption centers would facilitate statewide collection.

Hal responded that the Attorney General's office has decided that a/the distributor must have an agreement with a redemption center for collection/redemption services. Hal was asked to get that opinion in writing, as well as and AG's opinion on legality of RVM, and share prior to next meeting. He is also to share thoughts on definition of redemption centers.

Scott agreed with the concept of agreements/license fees for redemption centers, to ensure that there will be enough dollars raised with label registration fees to do the type of work envisioned by the Department of Agriculture in overseeing the Bottle Bill program. He also expressed the need to have these dedicated revenues remain committed to the Department's work on the Bottle Bill.

Peter said that the issue of guaranteeing the funding was a common topic at the subcommittee meeting, the concern of fees (license, registration) being truly dedicated. He suggested that any proposed legislation on the fees include a "sunset provision" as a possible way to make sure that if funds aren't used, funds goes away (collection of dollars).

Hal said that the recent legislature set up a non-lapsing dedicated account, which the Department of Agriculture has established. It would require legislative action to change the purpose of that account. Redemption center license & fees are going in it now. The intent is to have the first \$10,000 be used to hire a part time employee for database establishment. There are no licenses/registration label fees yet, but should start in April of 2003. The Department is now focusing on rules, inspector costs.

Richard offered that the state has liquor, wine, & beer information now. Can the Department of Agriculture get this information? Presently the liquor, wine and beer industry's fee is \$10/label for first time; renewal is \$1/label for year.

Hal responded that the Department is updating the database now. The data referred to costs \$300 but the Department doesn't have staff (at this time) to convert that data. The Technological Subcommittee of this larger group is looking at software sharing possibilities. One issue of concern is that there may be more than one pick up agent or Initiator of Deposit and that does need to be clarified.

Rep Clough said that the Bureau of Alcoholic Beverages has a database for the products they oversee and asked if the Department of Agriculture can get it and add soft drinks and other products, to which Hal responded that BABLO doesn't have a database, but still uses paper files only

Hal continued that the Department has constructed a database for 'bottle bill' products, and when the data is filled in, intends to share that information with BABLO

Trish Boutot, from TOMRA, shared with the attendees that TOMRA has 2 people working on the database TOMRA uses for its RVMs. The form used to collect the information from the distributor/manufacturer/Initiator of Deposit requires a signature. When there are multiple Initiators of Deposit and/or pick-up agents, the UPC data is not overly useful with this effort. They have just updated their database.

Peter gave an overview of the meeting held on September 9th with Leo Madden, Scott Solman, Dan Fortin and himself in attendance. He relayed that the conversations were open and topical. The process solution to attain the goal of reducing the number of sorts was neither obvious nor arrived at. He did report that the topic was boiled down to three general propositions.

1. The database and registration is a prerequisite. If the funds are not used for this purpose, the subcommittee members were concerned about the related fees and proper use of those fees.
2. Machines that scan and cancel containers in an accountable fashion should be allowed by law.
3. Cooperative Consolidation of containers should be encouraged.

Senator Youngblood asked if there was any interest in having distributors get out of collection of empties, to which Peter replied 'no'.

Scott added that the pick-up business has become an integral part of bottle bill program and that changes would impact system; for example, under the New Brunswick system, many redemption centers would go out of business. Any proposed solution affects all participants of the program.

Senator Youngblood requested that this issue be put on the table for discussion.

Oakley continued the discussion by saying the collection of empties from redemption centers has become a financial investment, and would become an economic question if they got out of the collections part. On the issue of over redemption, if a 'state bank' were established to manage the deposits, how would the state take this risk? The industry has done well in

handling the program and is reticent to back out of the system. His company has reduced the number of sorts down to 6 to 7 sorts, for the approximately 180 to 190 products they provide. In reference to reverse vending machines, he said that they can be an effective RVM but there needs to be need veracity with the counting and accounting of containers. Need solid, boilerplate type protection.

Dan Fortin provided additional comments on the Subcommittee's meeting and gave an overview of the New Brunswick, Canada, beverage container deposit and collection system. (A representative from the New Brunswick program was invited but was unable to attend this meeting.) There was group discussion on that system. Some highlights: the depots where returnable containers are redeemed at cannot sell product and the retailers cannot accept empties; the deposit is a 'half back' program; there is stronger enforcement oversight in Canada than in Maine; the redemption rate in New Brunswick is far less than in Maine. (Appendix "C")

Oakley went on to say that there was still no system for reducing sorts and that all the proposals presented seem to increase costs. He was concerned with how to handle over redemption, especially if "bank" is government.

Dan recounted his visit last year to New Brunswick, augmented by pictures, which he passed around. He noted that beer was sold in refillable containers and that the New Brunswick system was designed to accommodate the recycler, while Maine's is the opposite.

Leo said that New Brunswick has tremendous teeth in managing their bottle bill, with fines to ensure truthful accounting. Accountability is essential to any bottle bill.

Oakley offered two 2 thoughts: if RVM technology is to address part of issue, need to clarify accounts for assurances; and the importance of advance label registration to provide funding for bottle bill enforcement.

Ted also agreed, and added that from the committee's efforts from last year, it is necessary to have efficiencies within the system. The charge for the other subcommittee was to "find technologies and set up competitive systems", and look at options outside state government. We haven't taken the time to closely examine the existing system and develop possible technological answers. We need to seek guidance from involved parties and then select the best system for Maine.

Senator Youngblood offered that he doesn't see the legislature support for raising the handling fee 1 cent. We have to work with system, and improve enforcement. The system needs to be controlled within the state.

The attendees then heard from the other subcommittee, on the issue of Task # 4.

Peter Welch said he was interested in becoming knowledgeable of the specifications of equipment, specifically "off the shelf" technology that might be currently available, and related costs. All machines need a secured accounting capability and asked how a system would be aligned with a store or redemption center?

Oakley asked what the costs of this technology are. What's the break-even value for a piece of equipment that is human fed? It would be helpful to have the number of containers processed, the volume, in order to compare potential technological solutions.

Ted responded that we should be able to provide this type of comparison. Hal added that the dealers/manufacturers of machines should be able to provide that level of analysis. Ted finished the conversation by saying that developing a spreadsheet with that information should be possible, and would include maintenance fees, replacement costs. The subcommittee would be meeting again on October 8 and will be interviewing manufacturers/dealers of RVs for more information on their devices.

Discussion returned to the definition of a 'redemption center' and the proposed fees for the Department of Agriculture (from licenses and registrations). It was offered that the cost of overseeing the state's bottle bill program be covered by product registration fees and not by redemption center license fees.

Discussion was had on possible next meeting topics:

- Need to address definitions of RC's? Limit number? Or let economics control numbers?
- Licensing and fees for RC – justification for Department's fee determination
- Labeling registration and cost of system
- Responsibility rests with labeling folks and retail sales – clout needed to ensure that labels being sold are registered with the Department

The third meeting was held on October 23rd. After introductions, Senator Youngblood asked about definitions of Redemption Centers and fees – who shall be one? The number of centers has a direct bearing on the fees needed to be raised.

Hal Prince provided to and reviewed with the group a handout that presented a brief background on the bottle bill and financial data that had been presented to the Business and Economic Committee last spring on the funding necessary for the Department to address concerns relating to the bottle bill. Those financial projections on the handout have been the basis for establishing the registration fee and determination process. (Appendix "D").

Questions still to be answered are: What is a redemption Center? How many labels will be registered? Without hard and proven numbers, setting fees in anticipation of projected revenues will be a challenge.

Hal said that the law that was passed last year limits Redemption Center license fees to \$20 per year or \$40 for two years but he believes we can work with that. Representative Clough raised the possibility of changing that fee to address needs, if necessary.

Representative Clough suggested that the containers/products be registered by UPC and that the system should tie in with sorting as well.

Scott Solman said he spoke with Lynn Cayford, who is with Public Safety, Liquor Enforcement, and he told Scott that Bureau of Alcoholic Beverages and Lottery Operations label fees are \$10 each for beer, to change label is \$1, for annual renewal \$1. This generates \$33,000 a year in

revenue. Scott suggested taking the bureau's approach for UPC on 'bottle bill' containers could generate several hundred thousand dollars a year.

Oakley offered that to keep estimating revenues simple that UPC's be registered at \$5 each, changing it would be \$10. He said the real tasks are to get all UPC's into system and generate revenue. Value is the data that will be obtained through registration, which will lead to improved compliance and enforcement. Oakley estimated that \$150,000 could be generated by distributors in this scenario. But there also needs to be value placed on the Redemption Center, and its license fee.

Hal reminded attendees that license fees currently are received from redemption centers, but that initiators of deposit and contract agents could also be income sources.

Oakley suggested that the Initiator of Deposit fee should be close to the fee for licensing a redemption center, perhaps \$1500. He added that the Initiator of Deposit should be the entity that originates the deposit in the system.

Representative Clough stated that under the new label registration process, when the label is registered with the Department of Agriculture, the Initiator of Deposit is identified.

Hal said that with the label registration database, his agents could check a product on shelf, to establish who, if any, the Initiator of Deposit is, before it becomes an issue at the redemption center.

Oakley added that the retailers need to become a responsible party in identifying the Initiator of Deposit for their sales. Ted Brown agreed, that the retailers would be dealing primarily with exceptions, once system of label registration is in place. If the retailer issues a private label, they are the Initiator of Deposit and the retailer has to be accountable.

Representative Clough stated that the system needs enforcement & penalties, in order to work properly.

Leo commented that the Department should identify the "pickup" parties when product is registered with the Department of Agriculture, that there needs to be teeth in order to enforce redemption activity and redemption center concerns.

Senator Youngblood queried the group, asking if anyone had an idea for what the label registration fee might be for products and/or containers.

Discussion continued on ways to reach a fairly accurate number of containers in the system, more discussion on numbers of containers, possible dollar amounts for label fees, percentage of total funding needed by the Department of Agriculture for oversight and enforcement of the bottle bill that should come from label registration fees, and the process and fees in the case of multiple registrations and with multiple Initiators of Deposit? Issue boiled down to needing the number of SKU's in use under the bottle bill at this point. Perhaps TOMRA could provide that information.

Discussion continued on numbers. Trish Boutot, of TOMRA, said that their database contains between 30,000 and 35,000 SKU's but not all SKU's are current. She estimated that about 20% of that number might be out of date. Using those numbers, the group estimated that there

might be approximately 25,000 current SKU's in that database, which would be the number of labels requiring registration.

Hal commented that where beer & wine containers are covered by BABLO and identified in law, they would not be in that loop. He then asked 'who will be responsible for registering label, for being the Initiator of Deposit for beer and wine?'

Senator Youngblood said that the time extension requested for this committee's work had been requested, should give us the time necessary to complete data gathering.

Senator Youngblood questioned 'do we have a definition of redemption center?'

Scott asked the group if they wanted to limit the number of redemption centers. If so, retailers are currently exempt from the licensing, which is a loophole. He recommended using a per capita/mileage gauge for guidance in limiting redemption centers.

Peter Welch offered that it shouldn't be the responsibility of this group to legislate businesses out of business. He said that Massachusetts, for example, has a 67% return rate on their containers under their bottle bill, said 'don't emulate Massachusetts. Maine has 250 liquor agencies, 300 redemption centers and a return rate of 70% of the approximately 700,000,000 (estimated) containers covered by the bottle bill.

Representative Clough stated that this group was not in the business of interfering with business, but neither was it in place to guarantee success for redemption centers.

Discussion continued. Senator Youngblood directed the group back to the definition of a redemption center and asked how many we had in Maine. Hal responded, saying there were 305 licensed redemption centers. Senator Youngblood then asked that if we licensed everyone who takes back empty containers, the number of redemption centers would be raised to over 5000.

Representative Clough asked what does it take to get a redemption center license, and Hal said it takes identifying a facility, listing hours of operation, identifying names and addresses of distributors who have agreed to pick up the empties (and a listing of their product list), and names and addresses of retailers who have agreed to be served by the redemption center (and distance from redemption center). This information, as part of a completed application form and a \$20 license fee, is sent to the Department of Agriculture for obtaining a redemption center license. (Appendix "E").

Discussion continued on licensing of anyone who takes back containers, how reverse vending machines fit into the licensing concept, and the current exemption retailers have on being licensed. Hal commented that if retailers became licensed redemption centers, then restrictions on physical locations and per capita licensing guidelines need to be removed.

Oakley said that the language for revoking a redemption centers' license needs to be restated so that the Department can pull a license for noncompliance and other issues. This ability needs to be included with the award of the redemption center's license.

A question from the public in attendance - - wouldn't the Department be adding more 'container pickups' for distributors and third party collectors, if all retailers were licensed? Hal responded by saying the retailers are already being picked up, and that is in the statute and rules. He

continued that regulations do exist but are often overlooked. Redemption centers need an agreement with retailers, as part of the licensing process for redemption centers.

Peter Welch asked if a redemption center might charge a fee to a retailer, when serving as a retailer's identified redemption center. Where do vending machines fit in as retailers, especially since the law directs retailers to take back the product they sell?

Senator Youngblood restated that he did not believe the Business and Economic Development Committee would consider an increase to the current three-cent handling fee, during the upcoming Legislative session. But he did state that it appeared another meeting of this study group is needed. That meeting would benefit if a subcommittee of this group could identify and separate the number of SKUs that would/could be involved in a database for the bottle bill. Need to redefine redemption centers to include the larger universe of businesses that accept empty beverage containers. Establish a review system for licensing redemption centers and establish teeth that allow the Department of Agriculture to pull a redemption center's license for non-compliance.

Representative Clough asked for clarification for the definition of a contract agent in the proposed rules (currently being drafted by the Department of Agriculture).

Discussion continued. A contract agent is an agent for an Initiator of Deposit, except where exempted in the service contract between the two parties. The proposed rules need to clarify who and what a contract agent is, their responsibilities, and a clean understanding of the relationship between the Initiator of Deposit and its contract agent. Hal offered that the Attorney General's office would have to review the rules for accuracy.

Scott commented that the 'expanded' bottle bill containers, which are estimated at 20% of the total number of containers moving through the system, require 80% of the sorts done by redemption centers. That is an issue.

Peter Welch raised the point that "cooperative" collections for those containers would assist redemption centers in reducing their number of sorts. Redemption centers are still in favor of an increase in the handling fee, since their overall costs have increased. He would like to see more cooperative activities that would reduce the number of sorts required. Peter was not in favor of legislating this process, but rather that somehow it would be encouraged and closed by saying that there has been no 'epiphany' on this issue.

Representative Clough responded by saying that Peter has identified a problem. Can we identify the roadblocks that exist in cooperative collections?

Oakley commented that beer and soft drinks have low numbers of sorts but high volume of product categories. Perhaps the question is how do we manage the "expanded" bottle bill containers, large number of sorts, and low volume of containers. It is with this stream that efficiencies are needed.

Peter Welch responded by saying that would be a good goal. But each container is a sort. Is there a way to reduce the sort to "soda, aluminum can"?

Representative Clough said that the group's objectives are to reduce handling costs incurred by redemption center, improve "pick up" timing, without a major overhaul to the system. He still has concerns with the reverse vending machines; primarily with the machine's ability to 'destroy'

a container once it has been scanned, so that the container cannot be redeemed again. He then added that the storage of the 'expanded' bottle bill containers is a major issue with redemption centers. Can we target and manage these better?

Discussion continued on the role of technology in addressing the issues raised. A major question is the cost involved of this technology, concerns with reverse vending machines and their impact on the marketability and quality of the crushed containers, that distributors need protection with 'larger' co-mingled streams of containers (protection in terms of responsibility for payment of redemption and handling fees), and the possible need to change the standard of containers. Conversation continued with options on types of equipment and systems available, or being developed that could assist the redemption process.

One issue that there appeared to be consensus on was the need to have a product UPC on each container, which would facilitate the use of technology in sorting and provide a link to an Initiator of Deposit should management issues arise with that container. The questions were posed 'would legislative action be necessary to make this change' and 'who would oppose it'? Some potential concerns:

- That the UPC label not be on the container's cap
- Wine currently has a 'PLU #' - - will that be compatible or require change
- Net result will be fewer product purchase options for consumers
- Changing a label is a one-time charge of \$1000
- Costs may or may not be a significant factor, depending on current label and volume of sales
- Almost all soda, beer and wine have UPCs currently on the label
- For containers without UPCs, a sticky label could be made that the distributor would fasten to the appropriate containers
- Need to maintain 'separate identification' of product and container with system, for tracking through database the Department of Agriculture will be establishing, as opposed to a distributor making 'one' UPC with his number, to be affixed to containers within his responsibility

The group then moved on to the next agenda item and received the report from the Technology subcommittee's second meeting. Hal reviewed the notes of this meeting. What the subcommittee agreed upon was the need to have in place a database that provides UPC information on each product and container sold under the bottle bill, which would provide the control and oversight necessary for the Department of Agriculture to fulfill its task. On the subject of reverse vending machines and costs, the subcommittee concluded that approximately a yearly throughput of 5,000,000 containers would be necessary to cover the expenses related to this technology. The subcommittee plans to research further and see if other states have a data base record of beverage containers that may be useful to Maine, or concepts of such.

Richard commented that small redemption centers can't afford technology. Perhaps it would be possible to encourage co-operative efforts within the redemption center community and make this technology available.

Senator Youngblood moved the group along to the next agenda item, which was to address task number five assigned to the committee - - the issue of dropping the 15¢ on wine and spirits containers to 5¢. There had been much debate at the Economic and Business Development Committee and that it seemed to be a major concern. A primary issue is 'would dropping the

redemption rate from 15¢ to 5¢ reduce the return rate of these beverage containers?' Another concern was raised by redemption centers in that they have more money 'tied up' with these containers than for the 5¢ containers, which becomes a larger issue if the redeemed containers are not collected on a regular basis. A possible avenue of addressing that concern would be to change the pickup requirements for those containers, to minimize the time they 'sit' in the redemption center.

Scott offered that wine container returns are less than other products at this point, and would probably see a drop in that number should the redemption fee is dropped. The logistics associated with a change could be an issue, and transitioning to the lower fee cumbersome.

Marcel offered that perhaps the handling fee for 15¢ containers could be raised to address the time that the redemption center has to wait for collection and payment by the distributor.

Senator Youngblood suggested that we let a subcommittee addresses these issues, perhaps encourage more collection frequency and have a discussion on really how big an issue this is, the dropping of the redemption fee and how it could impact the smaller product lines. Subcommittee volunteers include Peter Welch, Scott Solman, Trish Boutot, Peter Guidi, Peter Flint, Leo Madden and Larry Pullen.

The fourth and final meeting of this committee was held on November 27th. Hal Prince reported on the last meeting held by the Technology subcommittee, where members were to see if any other 'bottle bill' states required label registration and/or had a database of labels. This inquiry was made in attempt to see if there was an opportunity for Maine to get a 'jump start' on the label registration program. The subcommittee polled all of the states that have bottle bills and found that none of them have the requirement for label registration (with the possible exception of Hawaii who's program is in it's infancy and may require registration at a later date). Of the other 10 states with bottle bills, only Massachusetts requires reporting of containers sold and redeemed. Vermont requires label approval, as does Maine. The other states do not have the degree of bottle bill expansion that Maine has, and rely on the essentially 'closed loop' nature of those affected beverage industries to handle redemption and redemption concerns.

Representative Clough said that the idea of co-mingling containers, to reduce the number of container sorts needed to be done at redemption centers, was still valid. He expects this issue to be discussed further at Business and Economic Development Committee meetings.

Oakley then offered the proposed draft of rules for the committee members to review and offer comments on. Senator Youngblood asked he and Hal to 'walk through' the substantive changes that this latest draft contains. There was brief discussion on the 'appropriateness' of working on the draft rules to which Representative Clough responded that 'this is the meat of what we have been working on' and was an appropriate issue for this committee. Copies of the draft rules were passed out and Hal Prince began reviewing the draft rules for the committee. (Appendix "F").

Highlights of the discussion that followed during the review were:

- 1) Initiators of Deposit and Contracted Agents needed to be added to the rules, to match legislation passed this past year;

- 2) Some 'editing out' of responsibilities and applications, due to changes in law, were done, to reflect past changes in laws;
- 3) Reorganizing and expanding the definitions to reflect more completely include terms and categories. Some wording changes were offered and accepted by the Department, especially with "contracted agent", "initiator of deposit", and "reverse vending machine". Question on whether the definition of "contracted agent" undermines statute was discussed and will be clarified. Also was raised the issue that statute requires empty beverage containers being redeemed shall be unbroken and reasonably clean - - how does this impact the use of reverse vending machines, which by operation, crush and destroy the beverage container.
- 4) It was suggested that the list of definitions be expanded to include specialty wines and Universal Product Code (UPC).
- 5) Under licensing of Redemption Centers, the rule has been expanded and should address concerns related to Department oversight of Redemption Centers.
- 6) Licensing of Initiators of Deposit is new but appeared to be ok.
- 7) Licensing of Contracted Agents is new. Some debate over whether a contracted agent could become an initiator of deposit and reduce the number of initiators of deposit (and adversely impact anticipated revenues) but believed to be ok as presented.
- 8) Moving part of proposed definition of contracted agent to this section, to more correctly tie in with licensing process.
- 9) Registration of Beverage Container Labels – this area received much attention and debate. Consensus is that the Department needs a verifiable listing of all products sold that are covered by the bottle bill, to assist with enforcement issues, but the process outlined in the draft rules met with resistance from many members. Of concern are: that the Department's labeling rules should mesh smoothly with the label system in place at BABLO; issue with private labels; that the rule should reflect the statute; and, how does this rule deal with multiple initiators of deposit.
- 10) On the issue of acceptance of beverage containers by distributors from dealers and redemption centers, the rules have been revised to reflect the destruction of containers processed through an approved reverse vending machine.
- 11) A recent opinion offered by the Attorney General's Office was presented by Hal, in reference to the responsibility of distributor in providing shells or shipping cartons to redemption centers. (The AG's opinion is shown in Appendix G.)
- 12) With regard to pickup of containers, one of the concerns expressed during the study committee meetings was the storage of less than 1000 containers but redemption centers commented that this wasn't a major concern for them and that keeping the minimum number at 1000 would be ok.
- 13) In section 13, 'Clearly Defined Labeling Requirements', Hal commented that the language in 'A', fits with other state's laws and provides consistency for manufacturers. Debate was had on have the 'manufacturer or initiator of deposit' submit the label. Concerns were raised about which would actually be responsible for submitting the label and perhaps having only one entity identified would be best. Some existing language was struck since it is no longer applicable.
- 14) 'Reporting Requirements' were deleted since no longer applicable.
- 15) 'Exempt facilities' was further clarified with this proposed revision.

Following the review and discussion of the presented draft rules, Senator Youngblood asked for a motion from the study committee that would reflect their support of these draft rules. It was voted to accept the wording of the draft rules, with today's comments, and agreed that the rules appeared to be 'headed' in the general direction the committee hoped for.

Senator Youngblood then offered Peter Welch the opportunity to present his thoughts on why the handling fee currently paid to redemption centers for accepting and managing the empty beverage containers should be increased. Peter thanked Senator Youngblood and said that the increase was needed by redemption centers. Business costs have risen in the twelve years that have past since the last increase, from two cents a container to three cents per container, was approved. He and other redemption centers had hoped that a process by which the number of sorts required of redemption centers would be reduced would assist in controlling rising costs. Peter commented that while he was pleased with the progress of this study committee, he did not believe that there was any true measure of relief afforded redemption centers. He finished by saying that with enforcement issues aside, tasks were not completely addressed that were assigned this committee, in terms of improving the operation of the current system.

Senator Youngblood then opened the floor to comments from the public. The following were presented:

- It was offered that perhaps all beverage containers should be recyclable; the exception being food containers, for safety reasons. How does this concept fit into our charge?
- Many companies don't want reverse vending machines to be used at all and some do not participate in their operation. Some companies don't want reverse vending machines to be used in redemption centers, or as 'stand alone' redemption centers.
- Needs to be change in how redemption centers can manage the containers, to increase revenues. Otherwise, redemption centers won't be able to survive much longer. May have to initiate a statewide referendum to address this concern.
- Discouraged by lack of movement of this study committee. There needs to be a handling fee increase - - all other costs are going up.

Meeting adjourned 12:20 PM.

SECTION 4 - REVIEW OF ASSIGNED TASKS, OUTCOMES, AND CONCLUSIONS

A. The Study Committee was tasked with five tasks, and early on during the meetings, agreed that the first three tasks should be reviewed and studied as one task. The subcommittee that volunteered to work on this effort considered the following tasks:

1. Develop a process for identifying ways to improve the efficiency of the returnable container deposit law;
2. Examine potential improvements including redesigning the operation of the system;
3. Study the viability of establishing cooperative container pick-up arrangements between redemption centers, distributors and collection agents.

The subcommittee met and discussed the topics raised by the assigned tasks. The conversation was reported as being 'open and topical'. The consensus of this subcommittee, at the end of their meeting, was that the process solution to attain the goal of reducing the number of sorts was neither obvious nor arrived at but that the topic was boiled down to three general propositions.

- I. The database and registration is a prerequisite. If the funds are not used for this purpose, the subcommittee members were concerned about the related fees and proper use of those fees.
- II. Machines that scan and cancel containers in an accountable fashion should be allowed by law.
- III. Cooperative consolidation of containers should be encouraged.

Senator Youngblood asked if there was any interest in having distributors get out of collection of empties, to which the response was 'no'. Distributors commented that the pick-up business has become an integral part of bottle bill program and that changes would impact system; for example, under the New Brunswick system, many redemption centers would go out of business. Any proposed solution affects all participants of the program.

Given the report of the subcommittee, and the consensus of members present, discussion ended on these tasks, with the following conclusions and recommendation:

- a. the value of the pending label registration and supporting database will be essential to assisting the proper implementation of the bottle bill law; focusing on helping the Department of Agriculture succeed with the appropriate rule changes will be an important step, as well as the funding that is tied with the labeling process.
- b. expanding the 'bottle bill' law, as well as Department of Agriculture rules, to include reverse vending machines, is necessary.
- c. encouraging initiators of deposit and beverage manufacturers and distributors to cooperate in the consolidation of empty beverage containers at the redemption level, to reduce the number of 'sorts' required by staff.

B. The subcommittee that volunteered to meet and study the fourth task, "possible technological improvements that will enhance the efficiency of the returnable container deposit law", met as a group. At the conclusion of their first meeting, they set up a second meeting and scheduled interviews with a number of technologies and machine manufacturers, to get a better idea of the costs, values and benefits of increasing the technology available to redemption centers. Following the second meeting, they did additional work in contacting the other bottle bill states to see if they had a 'database' available that we could perhaps utilize in identification and tracking of containers.

A major question is the cost involved of this technology, along with concerns with reverse vending machines and their impact on the marketability and quality of the crushed containers. It was noted that distributors need protection with 'larger' co-mingled streams of containers (protection in terms of responsibility for payment of redemption and handling fees), and the possible need to change the standard of containers.

One issue that there appeared to be consensus on was the need to have a product UPC on each container, which would facilitate the use of technology in sorting and provide a link to an Initiator of Deposit should management issues arise with that container. The questions were posed 'would legislative action be necessary to make this change' and 'who would oppose it'? Some of the concerns that were raised on this issue follow:

- That the UPC label not be on the container's cap
- Wine currently has a 'PLU #' - - will that be compatible or require change
- Net result will be fewer product purchase options for consumers
- Costs may or may not be a significant factor, depending on current label and volume of sales
- Almost all soda, beer and wine have UPCs currently on the label
- For containers without UPCs, a sticky label could be made that the distributor would fasten to the appropriate containers
- Need to maintain 'separate identification' of product and container with system, for tracking through database the Department of Agriculture will be establishing, as opposed to a distributor making 'one' UPC with his number, to be affixed to containers within his responsibility

Given the report of the subcommittee, and the consensus of members present, discussion ended on this task, with the following conclusion and observation:

- a. it was agreed that there was a critical need to have in place a database that provides UPC information on each product and container sold under the bottle bill, which would provide the control and oversight necessary for the Department of Agriculture to fulfill its task.
- b. based on the interviews and the subject of reverse vending machines and costs, the subcommittee concluded that approximately a yearly throughput of 5,000,000 containers would be necessary to cover the expenses related to the use of this technology.

The subcommittee researched further and see if other states have a data base record of beverage containers that may be useful to Maine, and discovered that no other bottle bill states have such a database or even concepts of such.

A comment from the full committee was offered: should small redemption centers can't afford the technology upgrades, perhaps it would be possible to encourage co-operative efforts within the redemption center community and make this technology available to them.

C. The fifth and final task assigned to this committee was to further examine the impact on rates of return of a proposal included in the report of the Committee to Study Reimbursement Rates for Maine's Bottle Redemption Businesses and Other Issues Related to the Handling and Collection of Returnable Containers that would decrease from 15¢ to 5¢ the refund value of wine and spirit containers of greater than 50 milliliters that are sold in the State.

At the first full meeting of this study committee, there was consensus that this topic was to be addressed once the other four tasks had been worked upon. Discussion revolved around the debate that had been had at the Economic and Business Development Committee and that it seemed to be a major concern. A primary issue is 'would dropping the redemption rate from 15¢ to 5¢ reduce the return rate of these beverage containers?' Another concern was raised by redemption centers in that they have more money 'tied up' with these containers than for the 5¢ containers, which becomes a larger issue if the redeemed containers are not collected on a regular basis. A possible avenue of addressing that concern would be to change the pickup requirements for those containers, to minimize the time they 'sit' in the redemption center.

Committee members were not anxious to see the redemption value for wine and spirits drop to five cents and were concerned with the logistics that would be necessarily associated with such a change as an issue, and that transitioning to the lower fee would be cumbersome. As far as seeing the redemption rate for the wine and spirits containers decreasing, it was noted that wine container returns are lower than other products at this point, and would probably see a drop in that number should the redemption fee be dropped.

The concern of redemption centers, that have to pay out three times as much in redemption value for wine and spirits containers, yet only receive the three cent handling fee (the same as for a soda, beer or other beverage container) was raised. Perhaps the handling fee for wine and spirits containers should be increased to address this concern. There was no consensus from the full committee on this suggestion.

Given the report of the subcommittee, and the consensus of members present, discussion ended on this task, with the following recommendation:

- a. to keep the fifteen-cent deposit on wine and spirits.

D. The Department of Agriculture, Food and Rural Resources was directed by the recently enacted legislation to revise their rules and regulations overseeing the bottle bill. The study committee responded favorably to the Department's request for their input in this process and much of the four meeting's time was spent in this effort. The final meeting of the study committee was nearly devoted to the review of the latest draft.

Following the review of the draft rules, the committee voted to:

a. accept the wording of the draft rules, with today's comments, and agreed that the rules appeared to be 'headed' in the general direction the committee hoped for.

In addition to assisting with the review of the rules, the study committee has been grappling with a fee system that would support the Department in its oversight and enforcement of the bottle bill. The Department had estimated that approximately \$243,000 would be needed annually to fund this work and the committee offered these suggestions for achieving that funding level:

- I. Redemption Centers - \$50 per year license fee (estimate 1200 to 1400 locations)
- II. Contract Agents - \$500 per year license fee (estimate 3)
- III. Initiator of Deposit - \$500 per year license fee (estimate 200 to 250)
- IV. Label fees - \$1.00 for wine (due to the number and type of products - -estimate 10,000 labels possible) and \$4.00 for all other beverage containers (estimate 25,000 labels possible)

SECTION 5 - PROPOSED LEGISLATION

MRSA 32: Professions and Occupations

Chapter 28: Manufacturers, Distributors and Dealers of Beverage Containers

§1862. Definitions

12. Premises. "Premises" means the property of the dealer or his lessor on which the sale is made. [1975, c. 739, §16 (new).]

~~12-A.~~ **13. Refillable.** "Refillable" means a beverage container which, after being used by a consumer, is to be reused as a beverage container at least 5 times by a manufacturer. [1979, c. 462, §2 (new).]

14. Reverse Vending Machine. "Reverse Vending Machine" (RVM) means an automated device utilizing a laser-scanner and microprocessor to accurately recognize the Universal Product Code (UPC) on containers and to accumulate information regarding containers redeemed, thereby enabling the RVM to accept containers from redeemers and to issue script for their refund value.

~~12-D.~~ **15. Rice milk.** "Rice milk" means any liquid intended for internal human consumption of which the primary protein source is rice protein derived from partially milled brown rice. [1993, c. 77, §2 (new).]

~~12-B.~~ **16. Spirits.** "Spirits" has the same meaning as in Title 28-A, section 2. [1989, c. 585, Pt. D, §§3, 11 (new); c. 869, Pt. C, §12 (aff).]

~~12-C.~~ **17. Unflavored soymilk.** "Unflavored soymilk" means any liquid containing no additional flavoring ingredients and intended for internal human consumption, the primary protein source of which is soy protein derived from whole soybeans, isolated soy protein, soy protein concentrate, soy flour, spray-dried tofu or spray-dried soymilk. [1991, c. 304, §2 (new).]

13. 18. Use or consumption. "Use or consumption" means the exercise of any right or power over a beverage incident to the ownership thereof, other than the sale, storage or retention for the purpose of sale of a beverage. [1975, c. 739, §16 (new).]

14. 19. Wine. "Wine" has the same meaning as in Title 28-A, section 2, except, that for the purposes of this chapter, "wine" does not include wine coolers. [1989, c. 585, Pt. D, §§3, 11 (new); c. 869, Pt. C, §12 (aff).]

15. 20. Wine cooler. "Wine cooler" means a beverage of less than 8% alcohol content by volume consisting of wine and:

- A. Plain, sparkling or carbonated water; and [1989, c. 585, Pt. D, §3, 11 (new).]
- B. Any one or more of the following:
 - (1) Fruit juices;
 - (2) Fruit adjuncts;
 - (3) Artificial or natural flavors or flavorings;
 - (4) Preservatives;
 - (5) Coloring; or
 - (6) Any other natural or artificial blending material.

[1989, c. 585, Pt. D, §3, 11 (new); c. 869, Pt. C, §12 (aff).]

§1866. Application

1. **Dealer acceptance.** Except as provided in this section, a dealer may not refuse to accept from any consumer or other person not a dealer any empty, unbroken and reasonably clean beverage container of the kind, size and brand sold by the dealer, unless they have been processed through an approved reverse vending machine which meets the requirements of the rules to be adopted by the Department pursuant to this program, or refuse to pay in cash the refund value of the returned beverage container as established by section 1863-A. This section does not require an operator of a vending machine to maintain a person to accept returned beverage containers on the premises where the vending machine is located. [1991, c. 819, §6 (amd).]

Note: legislation passed during the second session of the 120th Legislature, MRSA Title 32, section 1871-A, made reference to the process by which the Department of Agriculture, Food and Rural Resources were to follow in implementing licensing fees for Redemption Centers. The Department is directed base the amount of fees on the actual cost of implementing increased responsibilities under this Act. Initially, fees may be set at a level to cover one-time start-up costs, but after that fees must be set at a level to cover ongoing costs only, except for calendar years 2003 and 2004 when the department shall issue redemption centers a 2-year license for a fee not to exceed \$40. Under the direction of the joint standing committee of the Legislature have jurisdiction over business and economic development matters, the department shall consult with affected parties in developing the licensing fee schedule.

This point is raised since the proposed rules for Redemption Centers set the annual license fee at \$50, which does not follow the directive set above.

APPENDIX A

LEGISLATIVE STUDY COMMITTEE MEMBERSHIP

LEGISLATIVE STUDY COMMITTEE MEMBERSHIP

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APPENDIX B

PUBLIC LAW 661, SECOND SESSION OF THE 120TH LEGISLATURE

PUBLIC LAWS OF MAINE
Second Regular Session of the 120th

CHAPTER 661
H.P. 1685 - L.D. 2184

**An Act to Implement the Recommendations of the Returnable Container
Handling and Collection Study**

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 32 MRSA §1861, sub-§2, as amended by PL 1979, c. 731, §19, is further amended to read:

2. Intent. It is the intent of the Legislature to create incentives for the manufacturers, distributors, dealers and consumers of beverage containers to reuse or recycle beverage containers thereby removing the blight on the landscape caused by the disposal of these containers on the highways and lands of the State and reducing the increasing costs of litter collection and municipal solid waste disposal.

~~This chapter will be administered by the Department of Agriculture, Food and Rural Resources with the authority to interpret the chapter and to issue the necessary rules and regulations in order to carry it into effect.~~

Sec. 2. 32 MRSA §1862, sub-§§8-A and 8-B are enacted to read:

8-A. Initiator of deposit. "Initiator of deposit" means a manufacturer, distributor or other person who initiates a deposit on a beverage container under section 1863-A.

8-B. Local redemption center. "Local redemption center" means a place of business that deals in acceptance of empty returnable beverage containers from either consumers or from dealers, or both, and that must be licensed under section 1871-A.

Sec. 3. 32 MRSA §1865, sub-§3 is enacted to read:

3. Label registration. An initiator of deposit shall register the container label of any beverage offered for sale in the state on which it initiates a deposit. Registration must be on forms or in an electronic format provided by the department and shall include the universal product code for each combination of beverage and container manufactured. The initiator of deposit shall renew a label registration annually and whenever that label is revised by altering the universal product code or whenever the container on which it appears is changed in size, composition or glass color. The initiator of deposit shall also include as part of the registration the method of collection for that type of container, identification of a collection agent and proof of the collection agreement. The department may charge a fee for registration and registration renewals under this subsection. Rules adopted pursuant to this subsection that establish fees are major substantive rules as defined in Title 5, chapter 375, subchapter II-A and subject to review by the

joint standing committee of the Legislature having jurisdiction over business and economic development matters.

Sec. 4. 32 MRSA §1866-B, as enacted by PL 1995, c. 395, Pt. P, §4, is repealed.

Sec. 5. 32 MRSA §1866-C, as enacted by PL 1995, c. 395, Pt. P, §5 and affected by §11, is repealed.

Sec. 6. 32 MRSA §1867, sub-§3, as enacted by PL 1975, c. 739, §16, is amended to read:

3. Approval. The commissioner shall approve the licensing of a local redemption center if ~~he finds that the center will provide a convenient service for the return of empty beverage containers~~ the redemption center complies with the requirements established under section 1871-A. The order approving a local redemption center ~~shall license~~ must state the dealers to be served and the kinds, sizes and brand names of empty beverage containers ~~which that the center shall accept~~ accepts.

Sec. 7. 32 MRSA §1867, sub-§4, as amended by PL 1991, c. 819, §12, is further amended to read:

4. Redemption center acceptance. A local redemption center may not refuse to accept from any consumer or other person not a dealer any empty, unbroken and reasonably clean beverage container of the kind, size and brand sold by a dealer served by the center as long as the label for the container is registered under section 1865, subsection 3 or refuse to pay in cash the refund value of the returned beverage container as established by section 1863-A.

Sec. 8. 32 MRSA §1871, as amended by PL 1995, c. 395, Pt. P, §7 and affected by §11, is repealed.

Sec. 9. 32 MRSA §§1871-A, 1871-B and 1871-C are enacted to read:

§1871-A. Licensing requirements

A license issued annually by the department is required before any person may initiate deposits under section 1863-A, operate a redemption center under section 1867 or act as a contracted agent for the collection of beverage containers under section 1866, subsection 5, paragraph B.

1. Procedures; licensing fees. The department shall adopt rules establishing the requirements and procedures for issuance of licenses and annual renewals under this section, including a fee structure. Initial rules adopted pursuant to this subsection are routine technical rules as defined in Title 4, chapter 375, subchapter II-A. Rules adopted effective after calendar year 2003 are major substantive rules as defined in Title 5, chapter 375, subchapter II-A and are subject to review by the joint standing committee of the Legislature having jurisdiction over business and economic development matters.

2. Criteria for licensing rules. In developing rules under subsection 1 for licensing redemption centers, the department shall consider at least the following:

A. The health and safety of the public, including sanitation protection when food is also sold on the premises; and

B. The convenience for the public, including standards governing the distribution of centers by population or by distance, or both.

§1871-B. Beverage Container Enforcement Fund

1. Creation. The Beverage Container Enforcement Fund, referred to in this section as the "fund," is created under the jurisdiction and control of the department.

2. Sources of money. The fund consists of the following:

A. Fees for issuance of licenses and license renewals under section 1871-A;

B. Fees for registration of beverage container labels and registration renewals under section 1865, subsection 3; and

C. All other money appropriated or allocated for inclusion in the fund.

3. Application of fund. The department may combine administration and inspection responsibilities of other programs it administers with administration and enforcement responsibilities under this chapter for efficiency purposes; however, money in the fund may be used to fund only the portion of staff time devoted to administration and enforcement activities under this chapter.

4. Revolving fund. The fund is a nonlapsing, revolving fund. All money in the fund must be continuously applied by the department to carry out the administrative and enforcement responsibilities of the department under this chapter.

§1871-C. Department administration

The department shall administer this chapter and has the authority, following public hearing, to adopt necessary rules to carry it into effect. The department may adopt rules governing local redemption centers that receive beverage containers from dealers supplied by distributors other than the distributors servicing the area in which the local redemption center is located in order to prevent the distributors servicing the area within which the redemption center is located from being unfairly penalized. In addition to other actions required by this chapter, department responsibilities include the following.

1. Registry of labels. The department shall establish and maintain a registry of beverage container labels. The registry must contain the information for each beverage type and beverage container filed under section 1865, subsection 3 arranged and displayed in an organized and comprehensible manner. The department shall update the registry regularly and make information from the registry available upon request.

2. Provision of information. The department shall provide information about the operation of this chapter to any affected person whose premises it inspects or visits as part of its licensing and inspection responsibilities.

Sec. 10. 32 MRSA §1872, sub-§1, as enacted by PL 1989, c. 585, Pt. D, §§9 and 11, is repealed.

Sec. 11. Implementation of label registration requirements. In implementing the label registration requirements of the Maine Revised Statutes, Title 32, section 1865, subsection 3, the Department of Agriculture, Food and Rural Resources shall coordinate with the Department of Public Safety, Bureau of Liquor Enforcement and the Department of Administrative and Financial Services, Bureau of Alcoholic Beverages and Lottery Operations so that, to the maximum extent possible, registration of beer, wine and spirits under that subsection does not duplicate registration requirements enforced by those bureaus.

Sec. 12. Implementation of licensing fees. In adopting rules establishing licensing fees under the Maine Revised Statutes, Title 32, section 1871-A, the Department of Agriculture, Food and Rural Resources shall base the amount of fees on the actual cost of implementing increased responsibilities under this Act. Initially, fees may be set at a level to cover one-time start-up costs, but after that fees must be set at a level to cover ongoing costs only, except for calendar years 2003 and 2004 when the department shall issue redemption centers a 2-year license for a fee not to exceed \$40. Under the direction of the joint standing committee of the Legislature have jurisdiction over business and economic development matters, the department shall consult with affected parties in developing the licensing fee schedule.

Sec. 13. Committee reestablished. The Committee to Study Reimbursement Rates for Maine's Bottle Redemption Businesses and Other Issues Related to the Handling and Collection of Returnable Containers, established by Joint Order 2001, House Paper 1389 in the First Regular Session of the 120th Legislature and referred to in this section as the "committee," is reestablished as follows.

1. All members who were members of the committee appointed by the President of the Senate and the Speaker of the House after the First Regular Session of the 120th Legislature may continue to serve on the committee. Members who choose not to continue serving as members may be replaced by the respective appointing authority, except that 2 of the legislative members must be members of the Joint Standing Committee on Business and Economic Development. In addition to the original 13 members, the committee is composed of the following members:

A. One member representing beverage manufacturers who is not a distributor, appointed by the Speaker of the House; and

B. The Commissioner of Agriculture, Food and Rural Resources, or the commissioner's designee.

All additional appointments must be made no later than 30 days following the effective date of this Act. The appointing authorities shall notify the Executive Director of the Legislative Council upon making their appointments. The Senator named to the committee serves as Senate chair and the first named House member serves as House chair. The committee shall meet at the call of the cochairs. The committee may meet not more than 4 times to conclude its work.

2. The committee shall study issues related to the operation of bottle redemption businesses and to the handling and collection of returnable containers. In examining these issues, the committee shall:

A. Develop a process for identifying ways to improve the efficiency of the returnable container deposit law;

- B. Examine potential improvements including redesigning the operation of the system;
- C. Study the viability of establishing cooperative container pick-up arrangements between redemption centers, distributors and collection agents;
- D. Further study possible technological improvements that will enhance the efficiency of the returnable container deposit law; and
- E. Further examine the impact on rates of return of a proposal included in the report of the Committee to Study Reimbursement Rates for Maine's Bottle Redemption Businesses and Other Issues Related to the Handling and Collection of Returnable Containers that would decrease from 15¢ to 5¢ the refund value of wine and spirit containers of greater than 50 milliliters that are sold in the State.

3. The State Planning Office shall absorb costs to provide staffing for the committee and other costs of the study, except legislative per diem and legislative expenses.

4. Committee members who are Legislators are entitled to receive the legislative per diem, as defined in the Maine Revised Statutes, Title 3, section 2, and reimbursement for travel and other necessary expenses for their attendance at authorized meetings of the committee. Public members not otherwise compensated by their employers or other entities that they represent are entitled to receive reimbursement of necessary expenses for their attendance at authorized meetings of the committee.

5. The cochairs of the committee, with assistance from the committee staff, shall administer that portion of the committee's budget related to legislative per diem and legislative expenses. Within 10 days after its first meeting, the committee shall present a work plan and proposed budget to the Legislative Council for its approval. The committee may not incur expenses that would result in the committee's exceeding its approved budget.

6. The committee shall submit a report that includes its findings and recommendations including suggested legislation to the joint standing committee of the Legislature having jurisdiction over business and economic development matters and the Legislative Council by November 6, 2002. Following receipt and review of the report, the joint standing committee of the Legislature having jurisdiction over business and economic development matters may report out a bill to the First Regular Session of the 121st Legislature to implement the committee's recommendations. If the committee requires a limited extension of time to conclude its study and to make its report, it may apply to the Legislative Council, which may grant the extension.

Sec. 14. Rulemaking. Rules adopted for the initial implementation of this Act, with the exception of that part that enacts Title 32, section 1871-A, are major substantive rules as defined in Title 5, chapter 375, subchapter II-A and are subject to review by the joint standing committee of the Legislature having jurisdiction over business and economic development matters. Following adoption of rules for the initial implementation of this Act, unless otherwise specified in the law, rules adopted to implement this Act are routine technical rules.

Sec. 15. Appropriations and allocations. The following appropriations and allocations are made.

**AGRICULTURE, FOOD AND RURAL RESOURCES, DEPARTMENT OF
Beverage Container Enforcement Fund**

Initiative: Allocates funds for 2 additional Consumer Protection Inspector positions, one additional Management Analyst position, one additional 1/2-time Compliance Officer position, one additional 1/2-time Clerk Typist III position and start-up, rulemaking and operational costs necessary to administer a licensing program for bottle redemption centers.

Other Special Revenue Funds 2001-02 2002-03

Positions - Legislative Count (0.000) (4.000)

Personal Services \$0 \$56,994

All Other 0 28,249

Total \$0 \$85,243

**AGRICULTURE, FOOD AND RURAL RESOURCES,
DEPARTMENT OF
DEPARTMENT TOTALS 2001-02 2002-03**

**OTHER SPECIAL REVENUE
FUNDS \$0 \$85,243**

**DEPARTMENT TOTAL -
ALL FUNDS \$0 \$85,243**

Effective July 25, 2002, unless otherwise indicated.

APPENDIX C

OVERVIEW OF THE NEW BRUNSWICK, CANADA, BEVERAGE CONTAINER DEPOSIT AND REDEMPTION PROGRAM

The New Brunswick Model:

Refer to 'New Brunswick System Diagrams'

The Players:

The Bank – In New Brunswick is a grocer/soft drink consortium, setup to run the system for the distributors of all non-alcoholic beverages. The Bank accomplishes this by taking various concepts such as bar codes and scanners and brought them together in one integrated system using off-the-shelf technology, software and programming tools.

The Government – Registers depot operators and issues Depot licenses. Has limited oversight of the system.

The Depots (redemption centers) – Small, independently owned, owner operated, businesses designed to accept containers from the consumers. The number of these Depots is tightly controlled by the Government.

The Distributors – Distributors of non-alcoholic beverages, who is the entity who sells to the retailer and is required by the Act to register with the Department of Environment listing all container types to be sold in the Province and file a plan for collecting these containers and having them recycled. There are approximately 120 Distributors of non-alcoholic beverages registered and all have appointed the Bank as their agent to look after the collection and processing of their containers.

The Carrier – Hired by the Bank to collect the returned beverage containers from the Depots.

The Regional Processing Centers – Hired to process the material prior to marketing by the Bank.

The Consumer – The public who pays the deposit when purchasing the beverage and after consumption redeems the container at a local Depot for 50% refund of their deposit.

Notes:

Distributors:

Registers with the Government. They submit a Stewardship Plan to Government identifying who their Bank will be. The Government then notifies the Bank, the Bank then calls the Distributor and an agreement is drawn up between the Bank and the Distributor. Distributors are all registered at the local level and all deposits are based on sales at the local level. Therefore, if there are any legal issues between the Government and Distributor, it can be dealt with within Provincial Law.

The path of the containers and the money.

Containers:

1. Sold to Retailer by Distributor
2. Sold to Consumer by Retailer
3. Once consumed, Consumer redeems container at Depot. (Retailers do not take back containers in N.B.)
4. Depots sell containers to Bank.
5. Hired Carrier transports containers from Depot to local processor.
6. Bank hires processor to prepare (process) containers for market.
7. Bank markets processed containers to end users, brokers, etc.

Money:

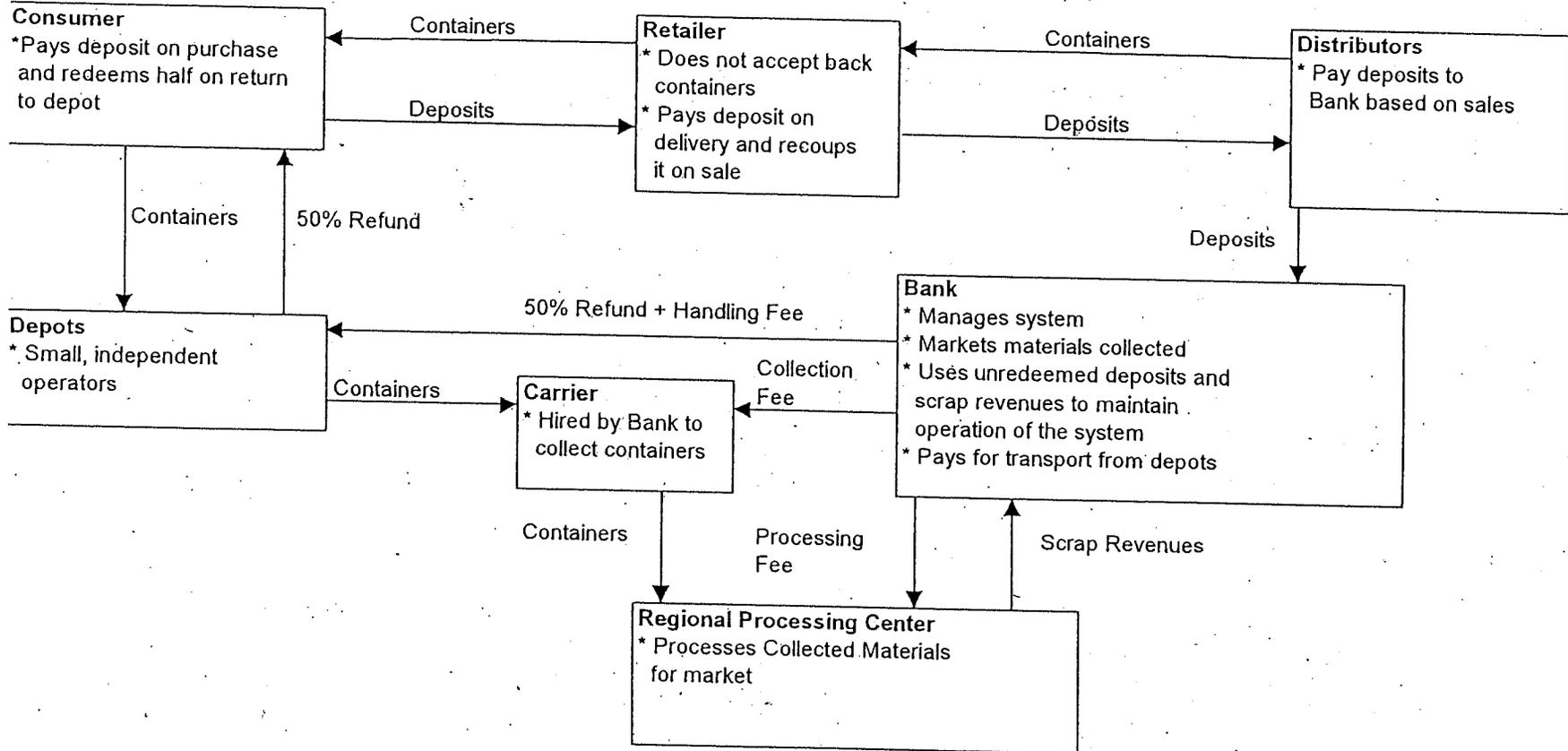
1. The Retailer pays deposit to Distributor when purchasing the product for resale.
2. The Consumer pays the deposit to the Retailer.
3. The Consumer receives a 50% refund when redeeming his container at a local Depot.
4. The Distributor pays the collected deposit to the Bank, based on his sales.
5. The Bank pays the Depot the 50% refund plus a 3 cent handling fee for each container picked up.
6. The Bank pays all Government Taxes, Environmental Fees, Refunds, Handling Fees, Collection Fees, and Processing Fees from the 50% Refund kept, the shrink, and the scrap revenue generated by the system.

Notes:

1. Current number of sorts in the system equals 24. That is for both non-alcoholic and alcoholic beverage systems.
2. Return Rate for the non-alcoholic portion of the system is 77.6 % from August 2001 through August 2002.
3. Deposits:
 - (a) Non-alcoholic beverages – 10 cent deposit, 5 cent refund
 - (b) Alcoholic beverages (≤ 500 ml.) – 10 cent deposit, 5 cent refund
 - (c) Alcoholic beverages (> 500 ml.) – 20 cent deposit, 10 cent refund (very small percentage)
 - (d) Alcoholic refillable (beer in glass) – 10 cent deposit, 10 cent refund (run by breweries)

NEW BRUNSWICK SYSTEM DIAGRAM (non-alcoholic)

Containers and Financial Flows for Non-Beverage Containers:



The Pros and Cons of the System:

Cons:

1. Places a significant portion of the funding of the system on the backs of the Consumers. Would double the cost of the system to the consumers of Maine.
2. Bank's contract with its Distributors provides for an additional processing charge in the event that the costs of operations exceed the deposit amount remitted and revenues realized from the recovered materials.
3. Exposes the Bank (rather than the producers of the beverage containers) to any potential over-redemption.
4. Dependent on a strong enforcement/registration system to maintain accountability.
5. Return Rate in Maine currently runs around 95-98%. The Maritimes Return Rate is 77.6%. Would this system mean more material in our waste stream and on our roadsides?
6. A portion of the Bank's revenue comes from the shrink in N.B. which currently runs about 23%. Maine's shrink runs somewhere between 5-8% on a good day.
7. A significant source of funding would come from the sale of commodities which is an up and down market. What does the Bank do on a down market?
8. Retailers do not redeem containers. Depots do not sell beverages.

Pros:

1. Material sorts at the Depots are governed only by the number of different materials and Carriers in the system. Currently in N.B. there are twenty-four (24) sorts. This becomes possible because the containers are identified by Distributor at the point of sale rather than at the redemption center.
2. Limits the number and improves the quality of Depots in the province.

APPENDIX D

**BACKGROUND OF PROPOSED CHANGES TO THE DEPARTMENT
OF AGRICULTURE IN OVERSIGHT AND ENFORCEMENT
ACTIVITIES RELATED TO THE BOTTLE BILL,
AND A VIEW OF WHAT IS FORESEEN**

A BRIEF BACKGROUND OF PROPOSED CHANGES TO THE DEPARTMENT OF AGRICULTURE IN OVERSIGHT AND ENFORCEMENT ACTIVITIES RELATED TO THE BOTTLE BILL, AND A VIEW OF WHAT IS FORESEEN

(PROVIDED BY THE DEPARTMENT OF AGRICULTURE FOR THE OCTOBER 23rd MEETING)

Since its inception, the Department of Agriculture, along with the Maine State Police, have been charged with enforcement of the "Bottle Bill".

Fees from licensing redemption centers were originally used to hire a half-time clerical position to conduct the licensing. An inspector position, funded from the General Fund, was also created to handle inspections and enforcement. Until 1991, this one staff inspector primarily handled all questions relating to the bottle bill, including inspections and enforcement. However, in 1991 this inspector position was eliminated in a cost saving measure and has not been replaced. Since then, the Division of Quality Assurance & Regulations have been doing as much as they can for inspection and enforcement, but with food safety being their highest priority, the limited staff can not begin to do all that is needed.

When the "Bottle Bill" study committee asked the Department to submit a request for funding in 2002, the Department assessed what would be needed to manage the "Bottle Bill" (with the expansion) in the coming years. The needed steps were identified and are presented here:

- First, it was envisioned that the construction of a database for label registration, that would identify the product and the initiator of deposit, would be essential. This database would be used by the Department staff to determine if the product being offered for sale is registered and has parties responsible for pickup identified.
- Secondly, it was envisioned that this database could be utilized by operators of redemption centers as a resource to find out who picks up certain types of products in their area (this question generates a large number of calls to the Department)
- Thirdly, the rules and regulations applicable to the bottle bill, redemption centers, and supporting services would have to be better defined and enforceable.
- To do this work, and add meaningful enforcement to the Bottle Bill, which may have thousands of 'covered' products, over 300 redemption centers and over 6000 points of retail sale, we determined that it would require the following staff:
 - (1) ½ time Clerk Typist III (data entry)
 - (1) Management Analyst (database creation, management, reporting, etc)

- (1) ½ time compliance officer (follow up enforcement & correspondence)
- (2) Full time consumer protection inspectors (field inspections)

A proposed budget reflecting these personnel and support changes was developed and presented to the Legislative Business and Economic Development Committee in the spring of 2002. That information was the basis for the economic projections considered by the Committee during the course of their deliberations on this subject. Those economic estimates are shown again here:

+++++

Personal Services – Estimated Annual Costs

| | <u>Salary</u> | <u>Benefits 46%</u> | <u>Total</u> |
|--|---------------|---------------------|--------------|
| (1) ½ time Clerk Typist III | \$13,509.60 | \$ 6,214.42 | \$19,724.02 |
| (1) Management Analyst (database creation, management, reporting, etc) | \$36,753.60 | \$16,906.66 | \$53,660.26 |
| (1) ½ time compliance officer | \$20,134.40 | \$ 9,261.82 | \$29,396.22 |
| (2) full time consumer protection inspectors | \$73,507.20 | \$33,813.31 | \$107,320.51 |

All Other Expenses

| | |
|----------------------------|-------------|
| 2 - vehicle rentals | \$10,000.00 |
| 4 computers | \$12,000.00 |
| General operating expenses | \$2,500.00 |
| In state travel | \$1,000.00 |
| Phone, pager, etc. | \$2,500.00 |

=====

| | |
|--------------------------------|---------------------|
| Total Personal Services | \$210,101.01 |
| Total All Other | <u>\$ 33,333.00</u> |
| Total of Proposed Services | \$243,434.01 |

APPENDIX E

APPLICATION FORM FOR LICENSING A REDEMPTION CENTER



Maine Department of Agriculture
 Division of Quality Assurance and Regulations
 28 State House Station
 Augusta, Maine 04333-0028
 Phone: 207-287-3841 Fax: 207-287-5576



FOOD AND FUEL LICENSE APPLICATION

| | | | |
|-----------------------------------|--------------------------------------|--|--|
| Check the TYPE of Request: | <input type="checkbox"/> New License | <input type="checkbox"/> License Renewal | <input type="checkbox"/> Change of Ownership |
|-----------------------------------|--------------------------------------|--|--|

Section 1: Establishment Information

| | | | | | | | | | | |
|---------------------|--|--|-----------------------|--------------------------------------|------------------------------|--|----------------------------|------------------------------------|----------------------------|-----------------------------|
| Establishment Name: | | | | New Business? | <input type="checkbox"/> Yes | <input type="checkbox"/> No | | | | |
| Street Address: | | | Former Establishment: | | | | | | | |
| City: | | | Former Owner: | | | | | | | |
| State: | | | Seating Capacity: | | | Full Time | Seasonal | | | |
| Zip: | | | Typical Season: | | | | | | | |
| Telephone: | | | Operating Hours: | | | | | | | |
| Cell/ Pager: | | | Operating Days: | <input type="checkbox"/> Su | <input type="checkbox"/> M | <input type="checkbox"/> T | <input type="checkbox"/> W | <input type="checkbox"/> Th | <input type="checkbox"/> F | <input type="checkbox"/> Sa |
| Fax: | | | Type of Water: | <input type="checkbox"/> Private Dug | | <input type="checkbox"/> Private Drilled | | <input type="checkbox"/> Municipal | | |
| Email: | | | Type of Septic: | <input type="checkbox"/> Private | | <input type="checkbox"/> Municipal | | | | |

Section 2: Owner Information

| | | | | | |
|--------------------------|--|------|--------|--------|--|
| Owner or Corporate Name: | | | | | |
| Site Manager: | | | | | |
| Mailing Address: | | | City: | | |
| State: | | Zip: | | Phone: | |
| Fax: | | | Email: | | |

Please Complete Each Section That Applies to Your Business

Section 3: License Type Retail

| Check One Block that Best Describes Your Operation | | Check All Services Provided That Apply to Your Business | | |
|---|---|---|--|--------------------------------|
| <input type="checkbox"/> Bakery | <input type="checkbox"/> Health Food Store | <input type="checkbox"/> Baked Goods (produced on site) | <input type="checkbox"/> Meat | |
| <input type="checkbox"/> Beverage Store | <input type="checkbox"/> Meat Market, Butcher | <input type="checkbox"/> Bulk Sales (candy, fruit, nuts, popcorn) | <input type="checkbox"/> Prepackaged Food Only | |
| <input type="checkbox"/> Book Store | <input type="checkbox"/> Mobile Vendor | <input type="checkbox"/> Coffee | <input type="checkbox"/> Produce (fresh) | |
| <input type="checkbox"/> Campground Store | <input type="checkbox"/> Movie Theater | <input type="checkbox"/> Cold Foods (prepared on site) | <input type="checkbox"/> Produce (processed) | |
| <input type="checkbox"/> Convenience Store | <input type="checkbox"/> Redemption Center | <input type="checkbox"/> Dairy Products | <input type="checkbox"/> Ready to Eat Deli Items | |
| <input type="checkbox"/> Department Store | <input type="checkbox"/> Salvage Food | <input type="checkbox"/> Frozen Food | <input type="checkbox"/> Salad Bar | |
| <input type="checkbox"/> Fitness Center | <input type="checkbox"/> Vegetable Stand | <input type="checkbox"/> Fruit Juices | <input type="checkbox"/> Seafood (fresh) | |
| <input type="checkbox"/> Drug Store | <input type="checkbox"/> Video/ Music Store | <input type="checkbox"/> Hotdog Steamer | <input type="checkbox"/> Seafood (ready to eat) | |
| <input type="checkbox"/> Gift Shop | <input type="checkbox"/> Other | <input type="checkbox"/> Hot Foods (prepared on site) | <input type="checkbox"/> Soda Fountain | |
| <input type="checkbox"/> Grocery Store | | <input type="checkbox"/> Ice Manufacturing | <input type="checkbox"/> Soft Serve Ice Cream | <input type="checkbox"/> Other |

RETAIL FEES (Section 3 on License Application)

Bakery:

| | | | |
|--------------------------|-----------------------|-------|------------------------------------|
| <input type="checkbox"/> | 0 to 10 employees: | \$10 | |
| <input type="checkbox"/> | 11 to 25 employees: | \$30 | |
| <input type="checkbox"/> | 26 or more employees: | \$100 | Fee Enclosed: <input type="text"/> |

Meat Sales:

| | | | |
|--------------------------|---|------|------------------------------------|
| <input type="checkbox"/> | Required if any meat, poultry, meat food products and poultry food products are offered for sale to consumer: | \$10 | |
| <input type="checkbox"/> | Required if cutting, wrapping or further processing any meat or poultry at a retail establishment: | \$50 | Fee Enclosed: <input type="text"/> |

Mobile Vendor:

| | | | |
|--------------------------|-----------------------|-------|------------------------------------|
| <input type="checkbox"/> | 0 to 10 employees: | \$10 | |
| <input type="checkbox"/> | 11 to 25 employees: | \$30 | |
| <input type="checkbox"/> | 26 or more employees: | \$100 | Fee Enclosed: <input type="text"/> |

Redemption Center:

| | | | |
|--------------------------|---------------|------|------------------------------------|
| <input type="checkbox"/> | All licenses: | \$20 | Fee Enclosed: <input type="text"/> |
|--------------------------|---------------|------|------------------------------------|

Retail Food Establishment (All Food or Beverage Sales):

| | | | |
|--------------------------|-----------------------|-------|------------------------------------|
| <input type="checkbox"/> | 0 to 10 employees: | \$10 | |
| <input type="checkbox"/> | 11 to 25 employees: | \$30 | |
| <input type="checkbox"/> | 26 or more employees: | \$100 | Fee Enclosed: <input type="text"/> |

License fees based on the number of employees must include all full-time, part-time and intermittent employees.

Total License Fees Section 3:

Section 4. License Type Food Processor

| Check One Block that Best Describes Your Operation | | Check All Services Provided That Apply to Your Business | | | | | |
|---|----------------------|--|-------------------|--------------------------|------------------------------|--------------------------|---------------------------------|
| <input type="checkbox"/> | Bakery | <input type="checkbox"/> | Breads, Rolls | <input type="checkbox"/> | Fruits, Vegetables | <input type="checkbox"/> | Seafood (raw) |
| <input type="checkbox"/> | Beverage Plant | <input type="checkbox"/> | Brewery | <input type="checkbox"/> | Ice | <input type="checkbox"/> | Seafood (ready to eat products) |
| <input type="checkbox"/> | Commercial Processor | <input type="checkbox"/> | Cakes, Pies | <input type="checkbox"/> | Jams, Jellies | <input type="checkbox"/> | Soft Drinks |
| <input type="checkbox"/> | Home Processor | <input type="checkbox"/> | Canned, Processed | <input type="checkbox"/> | Maple Syrup | <input type="checkbox"/> | Vacuum-packed Product |
| <input type="checkbox"/> | Other | <input type="checkbox"/> | Crabmeat | <input type="checkbox"/> | Meat (raw) | <input type="checkbox"/> | Water |
| <input type="checkbox"/> | | <input type="checkbox"/> | Fruit Juices | <input type="checkbox"/> | Meat (ready to eat products) | <input type="checkbox"/> | Other |

FOOD PROCESSOR FEES (Section 4 on License Application)

Commercial Food Processor:

All licenses: \$30 Fee Enclosed:

Bakery:

All licenses: \$30 Fee Enclosed:

Beverage Plant License:

0 to 5 employees: \$50
 6 or more employees: \$100 Fee Enclosed:

Commercial Meat Processor:

All Meat or Poultry processing activities (processing of livestock & poultry other than "custom"): \$50 Fee Enclosed:

Custom Meat Processor:

All Meat or Poultry processing activities (livestock or poultry for individual's exclusive use, not for sale): \$50 Fee Enclosed:

Home Food Processor:

All licenses: \$10 Fee Enclosed:

Food Salvage (Processor) (Retailer) (Broker):

0 to 5 employees or volunteers: \$15
 6 or more employees or volunteers: \$30 Fee Enclosed:

Maple Syrup Producer:

Less than 15 gal. of maple syrup production/ year: \$1
 More than 15 gal. of maple syrup production/ year: \$15 Fee Enclosed:

Slaughterhouse:

Commercial Slaughterhouse (other than "custom"): \$50
 Custom Slaughterhouse (livestock or poultry for individual's exclusive use, not for sale): \$50 Fee Enclosed:

License fees based on the number of employees must include all full-time, part-time and intermittent employees.

Total License Fees Section 4:

Section 5. Wholesale and Warehousing

| Check One Block that Best Describes Your Operation | | Check All Services Provided That Apply to Your Business | | | |
|---|--|--|------------------------|--------------------------|------------------------|
| <input type="checkbox"/> | Broker (Meat & Poultry Products) | <input type="checkbox"/> | Beverages | <input type="checkbox"/> | Meat (ready to eat) |
| <input type="checkbox"/> | Food Storage Warehouse | <input type="checkbox"/> | Breads | <input type="checkbox"/> | Ready to Eat Foods |
| <input type="checkbox"/> | Public Warehouse (Meat & Poultry Products) | <input type="checkbox"/> | Canned, Processed Food | <input type="checkbox"/> | Seafood (raw) |
| <input type="checkbox"/> | Wholesale Distributor | <input type="checkbox"/> | Fruits, Vegetables | <input type="checkbox"/> | Seafood (ready to eat) |
| <input type="checkbox"/> | Other | <input type="checkbox"/> | Ice | <input type="checkbox"/> | Vacuum-packed Product |
| <input type="checkbox"/> | | <input type="checkbox"/> | Meat (raw) | <input type="checkbox"/> | Other |

WHOLESALE / WAREHOUSE FEES (Section 5 on License Application)

Broker of Meat & Poultry Products:

All licenses: \$50 Fee Enclosed:

Food Storage Warehouse:

0 to 10 employees: \$10
 11 to 25 employees: \$30
 26 or more employees: \$100 Fee Enclosed:

Public Warehouse:

Storage of Meat & Poultry Products, all licenses: \$50 Fee Enclosed:

Wholesale Distributor of Meat & Poultry Products:

All licenses: \$50 Fee Enclosed:

License fees based on the number of employees must include all full-time, part-time and intermittent employees.

Total License Fees Section 5:

Section 6. Retail Fuel Establishment

Check **All** that apply to your operation

| | | | |
|--------------------------|--------------------------|--------------------|--|
| <input type="checkbox"/> | Diesel | Number of nozzles: | |
| <input type="checkbox"/> | Gas (regular unleaded) | Number of nozzles: | |
| <input type="checkbox"/> | Gas (mid-grade unleaded) | Number of nozzles: | |
| <input type="checkbox"/> | Gas (premium unleaded) | Number of nozzles: | |
| <input type="checkbox"/> | Kerosene | Number of nozzles: | |
| <input type="checkbox"/> | Propane | Total nozzles: | |
| <input type="checkbox"/> | Other | | |

RETAIL FUEL ESTABLISHMENT FEES (Section 6 of License Application)

Registration of Motor Fuel Dispensers:

\$8 / nozzle / year No. of nozzles = X \$8 ea. = Fee Enclosed:

A dispensing nozzle is one that is capable of dispensing a single product. Each additional grade of product dispensed from a single nozzle shall constitute as an additional dispensing nozzle.

Total License Fees Section 6:

Section 7: Complete the following checklist, sign and date application prior to submittal. License issuance may be delayed and application returned if necessary materials are omitted.

- All information requested in Sections 1 and 2 has been provided.
- Each section in which a license is wanted is complete.
- If water source is from a private well, enclose a copy of a water safety analysis from an accredited laboratory for coliform bacteria, nitrites and nitrates completed within the past 30 days.
- If a private septic system is used, enclose documentation of compliance with the "Maine Subsurface Waste Water Disposal Rules." This may be obtained from a Code Enforcement Officer or Plumbing Inspector.
- Seafood processors must complete a hazard analysis of each product and implement necessary HACCP Plan(s).
- Home food processors must enclose review from an accredited food processing authority for manufacturing low acid or acidified food and other potentially hazardous food products.
- Out-of-state establishments must enclose current sanitation inspection from the licensing authority.
- Out-of-state beverage plants must enclose copies of beverage labels – every kind, size and brand – to be sold in the State of Maine.
- Application must be submitted 30 or more days prior to **Opening Date:** _____
- To make arrangements for inspection, an inspector may contact **Name:** _____
Phone: _____

License fees must accompany application. Checks must be made payable to: **TREASURER, STATE OF MAINE**

Multi-year Licenses (up to 3 years) are available upon request for establishments that DO NOT produce potentially hazardous foods or are not required to submit an annual water test.

Total of ALL License Fees (Section 3-6):

Print Name: _____ Signature: _____ Date: _____

NOTICE: Any false written statements made by the undersigned, with the intent to deceive a public servant in the performance of his or her official duties, may expose the undersigned to criminal liabilities under 17-A MRSA 453 1.B. (1).

| OFFICE USE ONLY | | | | |
|--------------------|----------|----------|----------|-----------|
| Date Received: | | | | Comments: |
| Date Reviewed: | | | | |
| Reviewed By: | | | | |
| Application: | Approved | Rejected | Returned | |
| Date Returned: | | | | |
| Current License # | | | | |
| Expiration Date: | | | | |
| Method of Payment: | | | | |
| Check # | | | | |
| Cash Receipt # | | | | |
| Credit Card # | | | | |
| Credit Type: | MC | | VISA | |
| Expiration Date: | | | | |

APPENDIX F

**DRAFT RULES RELATING TO RESPONSIBILITIES OF
MANUFACTURERS UNDER THE BOTTLE BILL,
AS PRESENTED TO THE STUDY COMMITTEE
AT THEIR FOURTH MEETING**

DRAFT 11/25/02

01-001 DEPARTMENT OF AGRICULTURE, FOOD & RURAL RESOURCES

001 ————— DIVISION OF QUALITY ASSURANCE AND REGULATIONS

Chapter 360: RESPONSIBILITIES OF MANUFACTURERS, DISTRIBUTORS, DEALERS, INITIATORS OF DEPOSIT, CONTRACTED AGENTS AND REDEMPTION CENTERS UNDER THE RETURNABLE BEVERAGE CONTAINER LAW.

SUMMARY: The purpose of these ~~Chapters~~ rules are to clarify responsibilities of manufacturers, dealers, distributors, initiators of deposit, contracted agents, and redemption centers for the pickup and sorting of empty beverage containers and establish a time for payment of deposits, refunds and handling charges under the Returnable Beverage Container Law.

These ~~regulations~~ rules also govern items affected by expansion of the Maine Beverage Container Law (32 M.R.S.A., Chapter 28, Sections 1861-1872), ~~namely wine containers, which by statute will be affected September 1, 1990, and other beverage containers which by statute will be affected on December 31, 1990, (Sec. C, P.L. 1990, c. 869); and clarify Section 1866 (6) which requires all beverage distributors (including distributors of alcoholic beverages and soft drink beverages) to annually report totals.~~

1. Definitions

- A. Unless the context otherwise indicates, the definitions contained in 32 M.R.S.A. Sec. 1862 also apply to the defined words and phrases as used in this chapter.

B. As used in this chapter and unless the context otherwise indicates, the following words and phrases shall have the following meanings:

- (1) "Beverage" means beer, ale or other drink produced by fermenting malt, spirits, wine, wine coolers, soda or noncarbonated water, and all nonalcoholic carbonated or noncarbonated drinks in liquid form and intended for internal human consumption, ~~except for milk and dairy derived products.~~

The term "beverage" excludes the following:

- (a) A liquid which is (i) a syrup, (ii) in a concentrated form or (iii) typically added as a minor flavoring ingredient in food or drink, such as extracts, cooking additives, sauces or condiments;
- (b) a liquid which is ingested in very small quantities and which is consumed for medicinal purposes only;
- (c) a liquid which is designed and consumed only as a nutrition supplement and not as a beverage;
- (d) products frozen at the time of sale to the consumer, or, in the case of institutional users such as hospitals and nursing homes, at the time of sale to such users;
- (e) products designed to be consumed in a frozen state;
- (f) instant drink powders.
- (g) seafood, meat or vegetable broths, or soups, but not juices;
- (h) farm produced apple cider, ~~which has not been heated, pasteurized or otherwise processed.~~
- (i) ~~Milk and dairy derived products.~~

- (2) "Brand" means the designation of product as determined by a separate ~~trademark label and/or Universal Product Code.~~

- (3) ~~"Commissioner" means the Commissioner of the Department of Agriculture, Food, and Rural Resources.~~

(4) "Contracted Agent" means a private company or individual who enters into an agreement with the initiator of deposit to pick up empty beverage containers from redemption centers and dealers. A contract agent shall be required to perform all of the pickup functions of the initiator of deposit with whom they contract unless expressly exempted in the contractual agreement between the initiator and the contract agent.

(5) "Initiator of Deposit" means a business entity, either a manufacturer, distributor, or seller who is licensed by the Maine Department of Agriculture, Food & Rural Resources to initiate a deposits on beverage containers with labels properly registered under 32 MRSA 1865 subsection 3 and meeting the deposit requirements enumerated in 32MRSA 1863-A.

(36) "Kind" means the general composition of a beverage container, such as plastic, glass or metal.

(47) "Member Dealer" means any dealer who is included in the order license approving a local redemption center as issued by the Commissioner.

(58) "Milk and dairy-derived products means whole milk, skim milk, cream, low-fat milk, or any combination and includes other products of which the single largest ingredient is whole milk or milk fat or milk with varying percentages of milk fat.

(69) "Paper or cardboard container" means a container which is composed of at least 80 percent by volume of paper material, by statute such containers do not require a deposit.

~~"Redemption Center" means a place of business which deals in acceptance of empty returnable beverage containers from either consumers or from dealers, or both, and which is licensed by the Maine Department of Agriculture, Food & Rural Resources, Division of Regulations as a redemption center.~~

(10) "Redemption Center" means any place of business which accepts empty returnable beverage containers from either consumers or from dealers, or both, and which is licensed by the Maine Department of Agriculture, Food & Rural Resources, Division of Quality Assurance and Regulations as a redemption center.

a. Reverse Vending Machines are considered to be a Redemption Center if they are used as "stand alone" devices and not as a part of a licensed Redemption Center.

b. If a reverse vending machine is used as a "stand alone" device and not as part of a licensed redemption center, it will be the responsibility of the lessee or device owner to license the location as a redemption center as required in 32 MRSA subsection 1871-A.

(11) "Retailer" means a dealer who sells, offers, or exposes for retail sale, beverages in beverage containers.

(12) "Reverse Vending Machine" or "RVM" means an automated device utilizing a laser-scanner and microprocessor to accurately recognize the Universal Product Code (UPC) on containers and to accumulate information regarding containers redeemed, thereby enabling the RVM to accept containers from redeemers and to issue script for their refund value.

a. RVMs must identify, cancel, and destroy one-way deposit containers and sort refillable containers. RVMs shall collect accounting information for deposit and scrap settlement.

b. Reverse Vending Machines must be designed to provide an accurate printed report containing all of the following:

1. The number of containers placed in the reverse vending machine over a predetermined time period.

2. The brand name of each beverage container placed in the RVM

3. The kind, size, and brand of each beverage container placed in the RVM.

c. A reverse vending machine and any report that it provides are subject to inspection and audit by the Maine Department of Agriculture.

d. Each distributor of beverage containers which have been processed through a RVM shall have the opportunity to pick

up their share of scrap material, as determined from a report from the RVM.

- (7) ~~"Paper or cardboard container" means a container which is composed of at least 80 percent by volume of paper material, by statute such containers do not require a deposit.~~
- (813) "Shell" means the standard trade package made of fiberboard, wood or plastic designed for packaging, carrying or transporting glass or plastic beverage containers.
- (914) "Shipping carton: means the standard trade package made of cardboard or other material designed for packaging, carrying or transporting all types of ~~nonrefillable~~ beverage containers, and includes plastic bags used for the return of such ~~nonrefillable~~ containers.
- (150) "Size" means the liquid content of a beverage container, such as 500 ml., 2 liter.
- (164) "Type" means the unique physical design or construction of a beverage container, such as a flip top container.

2. Licensing of Redemption Centers

- A. All redemption centers within the State of Maine must be licensed with the Maine Department of Agriculture, Food & Rural Resources prior to beginning operation. Applications for approval of redemption centers shall be filed annually with the Department. —Aa \$250. 00 application and license fee shall accompany each application. Redemption centers must be inspected by the Department of Agriculture, Food & Rural Resources and meet all applicable requirements prior to licensure.
- B. Applications shall be made on a Department form entitled "Application for Redemption Center License" and shall supply the information requested thereon.

- C. The Commissioner ~~shall~~ may approve an application for a redemption center if he finds that the center will provide a convenient service for the return of empty beverage containers, has agreements with local retailers (dealers), and meets all other licensing requirements enumerated in these rules and 32 MRSA section 1867. In making this determination with respect to an existing center, the Commissioner may consider its compliance with the requirements of this chapter and the quality of the service provided.
- D. Redemption centers shall apply to the Commissioner for approval of any additional ~~members- retailers/dealers~~ obtained after the then-current annual license has been issued. The Commissioner's decision shall be made according to the criteria set forth in subsection C above.

3 Licensing of Initiators of Deposit

- A. All Initiators of Deposit distributing or selling beverages in the State of Maine must be licensed with the Maine Department of Agriculture, Food & Rural Resources prior to beginning operation. Applications for approval of Initiators of Deposit shall be filed with the Department, a \$500.00 license fee shall accompany each application.
- B. Applications shall be made on a Department form entitled "Application for Initiator of Deposit License" and shall supply the information requested thereon.
- C. Initiators of Deposit shall annually provide current lists of beverages on which they initiate deposit.
- D. Initiators OF deposit must notify the Department of Agriculture, Food & Rural Resources whenever products on which they initiate deposits are added or discontinued.

4 Licensing of Contracted Agents

- A. All Contracted Agents operating in the State of Maine must be licensed with the Maine Department of Agriculture, Food & Rural Resources prior to beginning operation. Applications for approval of Initiators of Deposit shall be filed with the Department, a \$500.00 license fee shall accompany each application.
- B. Applications shall be made on a Department form entitled "Application for

Contracted Agent License" and shall supply the information requested thereon.

C. Contracted Agents shall annually provide current lists of Initiators of Deposit with whom they have contracts and beverage containers which they pick up.

D. Contracted Agents shall notify the Department of Agriculture, Food & Rural Resources whenever Initiators of Deposit with whom they have contracts and/or beverages containers which they pick up are added or discontinued.

5 Registration of Beverage Container Labels

A. Registration of beverage container labels must take place at the manufacturer level.

B. Any beverage, with the exception of wine, requiring a deposit and refund value as enumerated in 32 MRSA subsection 1834-A must have affixed, a label that is registered with the Maine Department of Agriculture, Food & Rural Resources bearing a Universal Product Code.

C. Wines labels which do not bear a Universal Product Code may be labeled by the use of refund/deposit stickers which clearly identify the initiator of deposit and the refund value. Prior to sale within the State of a wine container to which a separate sticker stating the refund value is to be affixed, the manufacturer or initiator of deposit must submit the sticker to the Department of Agriculture, Food and Rural Resources, Division of Quality Assurance and Regulations for approval. Placement, suitability and security of the mark will be examined.

D. The registration period for each beverage label shall be from January 1 to December 31 and applications for label registration shall be on forms of in an electronic format provided by the Department. Labels may be registered for a 1,2, or 3 year period.

E. If a Universal Product Code on a beverage container is changed during the registration period it will be considered to be discontinued and an application for registration of the label bearing the new UPC code and appropriate registration fee must be submitted to the Department.

F. Fees for the registration of beverage labels are as follows:

1. Wine labels: \$1.00 annually.

2. All other beverage labels: \$ 4.00 annually.

36. Operation of Redemption Centers

A. All empty beverage containers shall be separated from food products sold on the premises by a solid partition.

B. Redemption centers shall be operated in such a manner as not to be a nuisance to the surrounding area and shall have:-

1. All necessary precautions to eliminate and protect against insect and rodent infestation inside and surrounding the premises and;

2. Adequate facilities to ensure adequate personal hygiene for employees.

3. Redemption centers that sell foods and/or beverages must also hold a valid retail food establishment license issued by the Maine Department of Agriculture, Food, & Rural Resources, Division of Quality Assurance and Regulations and meet all applicable sanitation requirements.

4. They shall also comply with the inspection standards contained on the Department form entitled "Redemption Center Inspection" which standards are incorporated herein by reference.

C. Redemption centers shall be open for business (i.e., acceptance of empty beverage containers) a reasonable number of hours, the volume of returns and area population considered. Redemption centers shall post their hours of operation in a conspicuous place.

D. The location of proposed and existing redemption centers shall be convenient to the customers to be served thereby.

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E. Redemption centers may charge a fee to members.

F. A redemption center may pick up beverage containers from non-members.

4Z. Acceptance of Beverage containers by Distributors from Dealers and Redemption

Centers

- A. A dealer or redemption center shall tender to a distributor only empty, unbroken and reasonably clean beverage containers of the kind, size and brand sold by the distributor; unless the containers have been processed through an approved reverse vending machine which meets the requirements of these rules.
- B. Except as provided in paragraph C, a dealer or redemption center shall be required to sort beverage containers subject to the Bottle Law of January 1, 1978, for which a refund value is statutorily required, namely, those containing beer, ale or other drink produced by fermenting malt, wine coolers, soda, and all non-alcoholic carbonated drinks in liquid form and intended for internal human consumption. These containers shall be sorted and tendered to a distributor as specified below:
- (1) Glass containers shall be sorted by size. Refillable glass containers shall be tendered in shells provided by the distributor.
 - (2) Metal containers shall be sorted by size and may be tendered in approved shipping cartons.
- C. A dealer or redemption center shall be required to sort beverage containers subject to the expansion of the Bottle Law, January 1, 1990 and later, namely those containing wine, non-carbonated water and all noncarbonated drinks in liquid form and intended for internal human consumption, excepting those liquids noted in definition (1) a - hi in this regulation these rules. These containers shall be sorted and tendered to the distributor as specified below.
- (1) Empty containers, unless they have been processed through an approved reverse vending machine which meets the requirements of these rules, shall be tendered to the distributor in shells or shipping cartons provided by the distributor, at the distributor's expense, or other containers mutually agreed upon by the distributor and retailer.
- D. Pick-up of such beverage containers from a dealer or local redemption center shall be the responsibility and expense of the distributor, unless the distributor has made other arrangements satisfactory to the dealer or redemption center for recycling or disposal of beverage containers.
- E. Containers may be sorted in other manners consistent with 7 herein.

58. Frequency of Pick-up by Distributors from Redemption Centers

Each time the distributor makes a regularly scheduled delivery of beverages, he shall pick up beverage containers from licensed redemption centers designated to serve those dealers to whom that distributor has sold those beverages, unless the local redemption center agrees otherwise; provided, however, that where a distributor can affirmatively demonstrate to the Commissioner that the following conditions exist, a waiver may be granted:

- A. The redemption center shall not request pickup of containers where the amount on hand is less than a combined total of 1,000 containers for which that distributor or contracted agent is responsible.

In order to be eligible for a waiver, the distributor or contracted agent must demonstrate that:

- (1) the stops required under these rules yield, on the average, less than 1,000 containers for which the distributor is responsible; and
- (2) Less frequent stops would alleviate an unreasonable financial or other hardship.

- B. After a waiver is granted, a distributor or contracted agent shall continue to have the obligation to pick up containers from a licensed redemption center designated to serve those dealers to whom that distributor has sold those beverages, but only in accordance with the following:

- (1) The distributor or contracted agent shall initiate pick up within one week of the request.
- (2) Pick up by the distributor or contracted agent shall be during the regular business hours of the redemption center, provided the redemption center is in operation at least 40 hours per week. Those redemption centers who conduct business less than 40 hours per week shall cooperate with a prearranged pickup time at the convenience of the distributor and shall allow for transportation delays.

69. Time for Payment by Distributors or Contracted Agent to Dealers and Redemption Centers

A. The distributor ~~or contracted agent~~ shall pay the dealer or local redemption center all applicable refunds, deposits and handling charges no later than ten (10) business days after acceptance.

(1) If payment is made by mail, payment shall be deemed to take place upon mailing.

710. Private Contracts and Business Transactions

These rules shall not be interpreted to prohibit any other arrangements for sorting, delivery, acceptance of payment or other matter related to beverage containers, which arrangement is consistent with Title 32 M.R.S.A. Sec. 1861 et seq and is mutually agreed upon in writing between the distributor and the dealer or redemption center.

811. Refusing Payment When a Distributor Discontinues A Specific Beverage Product

Distributors, ~~contracted agents~~, dealers, and redemption centers shall not refuse to pay the refund value of the returned beverage container as established by 32 M.R.S.A. Sec. 1863, as amended, except that distributors, dealers and redemption centers may refuse to pay such refund value in the following situations:

A. A distributor may refuse to pay the refund value if the distributor has given notice, in writing, to dealers to whom the distributor sold similar beverage containers and the licensed redemption centers serving those dealers that the particular kind, size and brand offered for refund has been discontinued and at least 4 months have elapsed since the mailing of such notice;

B. A dealer or redemption center may refuse to pay the refund value of beverages discontinued by distributor in accordance with subsection a) , above, no sooner than 3 months after the distributor has mailed the notice required by subsection a.; and

C. In no event shall a dealer or redemption center refuse to pay the refund value of discontinued beverages unless such dealer or redemption center shall have posted for at least 30 days a conspicuous notice advising consumers of the final date of acceptance.

912. Refund Value Initiation CLARIFY

~~Initiation of the deposit for non-refillable non-refillable containers; sold through distributorship which have no exclusive geographic area~~—sold through distributorships which have no exclusive geographic area may take place at the manufacturer level at the manufacturer's discretion; otherwise initiation of the deposit shall take place at the distributor level. Initiators of Deposit must be licensed with the Maine Department of Agriculture, Food & Rural Resources pursuant to 32MRSA subsection 1871-A prior to distribution of any beverage requiring deposit within the State of Maine.

4013. Clearly Defined Labeling Requirements

- A. Placement of label; method of labeling. The refund value and the word "Maine" or the abbreviation "ME" shall be clearly and conspicuously ~~displayed indicated~~ on every beverage container with at least 1/8 inch print in a color contrasting with it's background; with the exception of brand name glass beverage containers; sold or offered for sale by a dealer in this State, which are subject to 32 M.R.S.A. Section 1865 subsection 2, by embossing, stamping, labeling or other method of secure attachment to the beverage container. The refund value shall not be indicated on the bottom of the container. Metal beverage containers shall the word "Maine" or abbreviation "ME" on the top of the container.
- B. Approval of container labels. Prior to sale within the State, manufacturers or distributors must submit the entire label (including any printed material on the container) to the Department of Agriculture, Food and Rural Resources, Division of Quality Assurance and Regulations for approval.

Additionally, if a manufacturer directly prints or embosses the Maine redemption value directly on the beverage container, the manufacturer or ~~initiator of deposit~~distributor must submit such labeled container to the Department of Agriculture, Food and Rural Resources Division of Quality Assurance and Regulations for approval. Placement suitability and security of the mark will be examined.

- ~~C. Use of refund/deposit stickers; approval of redemption stickers. Stickers with the redemption value and state will be allowed only on products subject to the expansion of the bottle law, with the exception that stickers on cans for which a refund value is for the first time statutorily required effective December 31, 1990 will be allowed only until March 31, 1991. Thereafter, these containers must have the more permanent refund value message affixed under paragraph A of this section. Prior to sale within the State of a~~

~~container to which a separate sticker stating the refund value is to be affixed, the manufacturer or distributor must submit the sticker to the Department of Agriculture, Food and Rural Resources, Division of Regulations for approval. Placement, suitability and security of the mark will be examined.~~

~~C. With the exception of specialty wine products, after January 1, 2003 all beverage containers sold in the State of Maine shall bear a Universal Product Code (UPC) for that product. The UPC is an approved means of determining the deposit / refund eligibility of a container.~~

~~11. Reporting Requirements~~

~~Distributors' reports required by 32 M.R.S.A. Sec. 1866.6 shall be made on forms available from the Department of Agriculture, Food and Rural Resources, Division of Regulations. A distributor is not required to report for calendar year 1990 with respect to containers for which a refund value is statutorily required for the first time effective December 31, 1990.~~

~~Figures to be reported include those for containers for which a deposit/refund value was charged prior to the date required by statute as well as those for which such refund value was required.~~

~~1214. Exempt Facilities~~

~~Based on a determination of the Department pursuant to P.L. 1989 c. 585 Part D s 10, containers of farm produced apple cider will be exempt from the required refund and deposit. Local producers of apple cider that does not bear a deposit/refund statement shall receive empty containers of farm beverage from consumers who voluntarily return them without deposit. The opportunity for consumers to return empty containers shall be conspicuously posted at the processor's place of business and will encourage the return of containers to the processor for recycling. Distributors and cider producers shall receive empty containers of farm beverage from consumers who voluntarily return them without deposit. The opportunity for consumers to return empty containers shall be conspicuously posted at processor's place of business and will encourage the return of containers to the processor for recycling.~~

STATUTORY AUTHORITY: 32 M.R.S.A. Sec. 1866.5 and 1871

EFFECTIVE DATE: ~~April 22, 1980~~

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